

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2203581
Decision Date:	7/28/2022	Hearing Date:	06/14/2022
Hearing Officer:	Patricia Mullen	Record Open to:	07/14/2022

Appearance for Appellant:

██████████, ██████████
nursing facility

Medicaid specialist,

Appearance for MassHealth:

Cassandra Moura, Taunton MEC



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Verifications
Decision Date:	7/28/2022	Hearing Date:	06/14/2022
MassHealth's Rep.:	Cassandra Moura, Taunton MEC	Appellant's Rep.:	Medicaid specialist, nursing facility
Hearing Location:	Taunton MassHealth Enrollment Center		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated April 7, 2022, MassHealth denied the appellant's application for MassHealth Standard benefits for long term care residents because MassHealth determined that the appellant did not submit verifications necessary for MassHealth to determine eligibility. (see 130 CMR 516.002 and Exhibit 1). The appellant filed this appeal in a timely manner on May 9, 2022. (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032). The record was left open for 30 days until July 14, 2022.

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard for long term care residents.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.001, in determining that the appellant failed to submit verifications necessary to determine MassHealth eligibility.

Summary of Evidence

The appellant was represented telephonically by her authorized representative, who is a Medicaid specialist at the nursing facility. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The MassHealth representative testified that the appellant was admitted to the nursing facility on [REDACTED] and is seeking a May 1, 2020 start date. The MassHealth representative stated that the appellant submitted an application for MassHealth on February 11, 2022 and the earliest possible MassHealth start date would be November 1, 2021. The MassHealth representative stated that MassHealth sent the appellant an Information Request on March 1, 2022 seeking the cash surrender and face value of a life insurance policy. (Exhibit 4, p. 5). The MassHealth representative stated that the requested verifications were not received and MassHealth denied the application by notice dated April 7, 2022. (Exhibit 1). The MassHealth representative stated that the appellant did not list the life insurance policy on her application but it was listed in the MassHealth system from the appellant's 2016 MassHealth application.

The appellant's representative stated that the facility can't find the life insurance policy and the appellant has no family to help her. The appellant's representative stated that the appellant has a friend from the community, but the friend has no knowledge of the appellant's financial information. The appellant's representative stated that the appellant is not really competent and a referral was made to a law firm for appointment of a conservator. Upon questioning by the hearing officer, the appellant's representative reported that a petition for conservatorship had been filed. The MassHealth representative stated that if the appellant's representative submits a copy of the filed petition and docket number, and the medical certification to support that the appellant is medically incompetent, MassHealth could review to determine if the life insurance asset would be considered inaccessible.

The record was left open for two weeks, until June 28, 2022, to give the appellant's representative the opportunity to submit proof that the petition for conservatorship had been filed and a copy of the petition and accompanying medical document. (Exhibit 5). On June 28, 2022, the appellant's representative submitted a letter stating that they were still awaiting the doctor's signature for conservatorship but an agreement had been entered into with a law firm to file the petition. (Exhibit 6, pp. 3, 4). By email dated June 28, 2022, the hearing officer asked the appellant's representative if the petition had been filed as was indicated at the hearing, and noted that, if the petition had not yet been filed, it needed to be filed as soon as possible. (Exhibit 7). The hearing officer extended the record open period to July 14, 2022 and noted that only the petition with docket number and medical certificate needed to be submitted; the appellant's representative did not need to wait for the actual court order appointing the conservator. (Exhibit 7). The hearing officer noted that the appellant's representative needed to stress to the facility and the attorney's office that the petition needed to be filed before July 14, 2022. (Exhibit 7). By email dated July 19, 2022, the MassHealth representative reported that MassHealth still had not received the requested verification nor the petition for conservator or medical certificate. (Exhibit 8). By email dated July 19, 2022, the hearing officer asked the appellant's representative if the petition for conservator had been filed. (Exhibit 8). As of the date of this decision, the appellant's representative has not responded.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The appellant was admitted to the nursing facility on [REDACTED] and is seeking a May 1, 2020 start date.
2. The appellant submitted an application for MassHealth on February 11, 2022.
3. MassHealth sent the appellant an Information Request on March 1, 2022 seeking the cash surrender and face value of a life insurance policy.
4. The appellant did not submit the requested verifications and MassHealth denied the application by notice dated April 7, 2022.
5. The life insurance policy was listed in the MassHealth system from the appellant's 2016 MassHealth application.
6. The record was left open for two weeks, until June 28, 2022, to give the appellant's representative the opportunity to submit proof that the petition for conservatorship had been filed and a copy of the petition and accompanying medical document.
7. On June 28, 2022, the appellant's representative submitted a letter stating that they were still awaiting the doctor's signature for conservatorship.
8. By email dated June 28, 2022, the hearing officer asked the appellant's representative if the petition had been filed as was indicated at the hearing, and noted that, if the petition had not yet been filed, it needed to be done so as soon as possible.
9. The hearing officer extended the record open period to July 14, 2022 and noted that the appellant's representative needed to stress to the facility and the attorney's office that the petition needed to be filed before July 14, 2022.
10. By email dated July 19, 2022, the MassHealth representative reported that MassHealth still had not received the requested verification nor the petition for conservator or medical certificate.
11. By email dated July 19, 2022, the hearing officer asked the appellant's representative if the petition for conservator had been filed; as of the date of this decision, the appellant's representative has not responded.

Analysis and Conclusions of Law

Application for Benefits

(A) Filing an Application.

(1) Application. To apply for MassHealth

- (a) for an individual living in the community, an individual or his or her authorized representative must file a complete paper Senior Application and all required Supplements or apply in person at a MassHealth Enrollment Center (MEC); or
- (b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

(2) Date of Application.

- (a) The date of application is the date the application is received by the MassHealth agency.
- (b) An application is considered complete as provided in 130 CMR 516.001(C).
- (c) If an applicant described in 130 CMR 519.002(A)(1) has been denied SSI in the 30-day period before the date of application for MassHealth, the date of application for MassHealth is the date the person applied for SSI.

(3) Paper Applications or In-person Applications at the MassHealth Enrollment Center (MEC) — Missing or Inconsistent Information.

- (a) If an application is received at a MassHealth Enrollment Center or MassHealth outreach site and the applicant did not answer all required questions on the Senior Application or if the Senior Application is unsigned, the MassHealth agency is unable to determine the applicant's eligibility for MassHealth.
- (b) The MassHealth agency requests responses to all of the unanswered questions necessary to determine eligibility. The MassHealth agency must receive such information within 15 days of the date of the request for the information.
- (c) If responses to all unanswered questions necessary to determine eligibility are received within 15 days of the date of the notice, referenced in 130 CMR 516.001(A)(3)(b), the MassHealth agency will request any corroborative information necessary to determine eligibility, as provided in 130 CMR 516.001(B) and (C).
- (d) If responses to all unanswered questions necessary for determining eligibility are not received within the 15-day period referenced in 130 CMR 516.001(A)(4)(b), the MassHealth agency notifies the applicant that it is unable to determine eligibility. The date that the incomplete application was received will not be used in any subsequent eligibility determinations. If the required response is received after the 15-day period, the eligibility process commences and the application is considered submitted on the date the response is received, provided that if the required response is submitted more than one year after the initial incomplete application, a new application must be completed.
- (e) Inconsistent answers are treated as unanswered.

(B) Corroborative Information. The MassHealth agency requests all corroborative information necessary to determine eligibility.

- (1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of receipt of the application.
- (2) The notice advises the applicant that the requested information must be received within 30 days of the date of the request, and of the consequences of failure to provide the information.

(C) Receipt of Corroborative Information. If the requested information, with the exception of verification of citizenship, identity, and immigration status, is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.

(130 CMR 516.001).

The hearing officer may not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.

(130 CMR 610.071(A)(2)).

The appellant did not submit the information requested on the Information Request form dated March 1, 2022. Further, the appellant did not submit the requested information by the date of the hearing, over 3 months later. The appellant was admitted to the nursing facility year almost 3 years ago and needs MassHealth coverage beginning in May, 2020. It is reasonable that the appellant or representative should have begun compiling necessary financial data at the time of admission if it was known MassHealth coverage might be necessary. The appellant's earliest possible start date on a February, 2022 application would have been November 1, 2021. (130 CMR 516.006).

At the hearing, the appellant's representative indicated that the appellant might be incompetent and a conservatorship petition had been filed. The record was left open for 2 weeks for submission of the petition and accompanying medical certificate. As of June 28, 2022, the petition for conservatorship still had not been filed and the hearing officer extended the record open period to July 14, 2022. Nothing was submitted by the appellant's representative during the record open period and he did not respond to the hearing officer's inquiry on July 19, 2022.

The hearing process is not a means of extending the MassHealth application process set forth in the above regulations. The appellant did not submit requested information by the date set forth in the Information Request, and, further, did not submit the requested information by the hearing date nor during a one month record open period. Had the appellant's representative submitted proof that a conservatorship had been filed, with the accompanying medical certificate speaking to the appellant's medical incompetence, MassHealth might have been able to consider the life insurance inaccessible. This was not done.

Because verifications necessary for MassHealth to determine the appellant's eligibility for MassHealth remain outstanding, MassHealth cannot make a determination of the appellant's eligibility. MassHealth's action in denying the appellant's February 11, 2022 application for

failure to submit requested verifications in a timely manner is upheld and the appeal is denied.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center
Appellant Rep. [REDACTED]
[REDACTED]