

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2205376
<b>Decision Date:</b>	10/6/2022	<b>Hearing Date:</b>	08/15/2022
<b>Hearing Officer:</b>	Alexis Demirjian	<b>Record Open to:</b>	09/26/2022


**Appearance for Appellant:**  
[Redacted], Appellant Rep.

**Appearance for MassHealth:**  
Kim McAvinchey



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Outstanding Verifications
<b>Decision Date:</b>	10/6/2022	<b>Hearing Date:</b>	08/15/2022
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	 Appellant Rep.
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 2 Remote	<b>Aid Pending:</b>	No

## 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 June 17, 2022, MassHealth denied the appellant's application for MassHealth benefits because the Appellant did not submit the information MassHealth needed to decide his eligibility within the required time frame. (see 130 CMR 515.008 and Exhibit 3). The appellant filed this appeal in a timely manner on July 19, 2022 (see 130 CMR 610.015(B) and Exhibit 2).<sup>1</sup> Denial of an application for assistance is valid grounds for appeal before the Board of Hearings. (see 130 CMR 610.032 (A)(1)).

## Action Taken by MassHealth

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, and restated in MassHealth Operations Memo (EOM) 20-10 dated August 1, 2022, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

MassHealth notified Appellant that he is not eligible for MassHealth benefits because he did not submit the information it needed to decide his eligibility for within the required time frame.

## Issue

Whether MassHealth was correct in denying Appellant's application for MassHealth benefits?

## Summary of Evidence

A MassHealth representative appeared at the hearing and testified as follows: On May 2, 2022, MassHealth received a long-term care application on behalf of Appellant. On May 11, 2022, MassHealth sent a request for information. On June 17, 2022, MassHealth denied the application for failure to provide all the requested verifications. As of the date of the hearing, all verifications listed in the May 11<sup>th</sup> request for information were outstanding.

Appellant's representative appeared at the hearing by telephone and stated that she was working to obtain the outstanding verifications, and the Appellant's representative requested additional time to try to obtain the missing verifications. Pursuant to Appellant's request, the record was left open until September 12, 2022, for the Appellant to produce the missing verifications and until September 26, 2022, for MassHealth to respond.

The Appellant did not submit any documents to the Hearing Officer on or before September 12, 2022, nor did the Appellant request an extension of the record open period. On September 21, 2022, this Hearing Officer sent an email to the parties inquiring as to whether the verifications were received. On September 22, 2022, the Appellant's representative responded and noted that she had sent a doctor's note to MassHealth on September 1, 2022.<sup>2</sup> On September 26, 2022, the record open period closed and neither party updated the hearing officer regarding the status of the case. On September 30, 2022, the Hearing Officer inquired as to the status of the review.<sup>3</sup>

On October 3, 2022, MassHealth reported that as of that date there were still several outstanding verifications. MassHealth listed ten outstanding verifications that were needed to determine eligibility. MassHealth further explained that information provided on behalf of the Appellant was from the nursing home facility and the Appellant's representative did not provide any documentation directly from the Appellant, Appellant's spouse, or authorized representative.<sup>4</sup> Thus, MassHealth could not substantiate the verification of assets and was unable to determine the Appellant's eligibility.

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<sup>2</sup> A copy of the doctor's note was provided to the Hearing Officer, but it did not appear to provide proof for any of the outstanding verification requests.

<sup>3</sup> In response, the Appellant's representative sent an Ex-parte communication, and it is included in Exhibit 5. The Hearing Officer did not respond.

<sup>4</sup> Ostensibly communications and correspondence were provided by the Appellant representative to MassHealth, unfortunately copies were never submitted to the Hearing Officer and were not included in the record.

## Findings of Fact

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

1. On May 2, 2022, Appellant filed an application for MassHealth long-term-care benefits. (Testimony; Exhibit 4)
2. On May 11, 2022, MassHealth sent the Appellant a request for information.
3. Mass Health requested the verifications be submitted by June 10, 2022. (Testimony; Exhibit 4)
4. The Appellant failed to submit the verifications on or before June 10, 2022. (Testimony, Exhibit 4)
5. On June 17, 2022, MassHealth denied Appellant's long-term care application for failure to provide all the requested verifications. (Testimony; Exhibit 3)
6. As of the date of the hearing, MassHealth had still not received any of the verifications requested in the May 11<sup>th</sup> letter. (Testimony)
7. The record was left open until September 12, 2022, for Appellant to produce the missing verifications and until September 23, 2022, for MassHealth to respond. (Exhibit 5)
8. On October 4, 2022, the MassHealth representative indicated that she had not received the documents related to the outstanding verification request and reaffirmed their denial of the application. (Exhibit 5)

## Analysis and Conclusions of Law

Applicants for MassHealth have an obligation to cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance. See 130 CMR 515.008

Once an application for MassHealth long-term-care benefits has been submitted, the MassHealth agency requests all corroborative information necessary to determine eligibility. See 130 CMR 516.001. 130 CMR 516.001(B) provides the following with respect to corroborative information:

- (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.

130 CMR 516.001(C) sets forth the process regarding the receipt of corroborative information, and provides as follows:

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.

In the present case, on May 11, 2022, the Appellant received notice that failure to send the requested verifications by June 10, 2022, could result in the denial of benefits. The Appellant did not submit the outstanding verifications by June 10, 2022. Subsequently, MassHealth did not have the information necessary to determine the Appellant's eligibility for benefits. On June 17, 2022, the Appellant's application was denied for failure to submit documentation as required by 130 CMR 515.008.

Almost two months later, on August 15, 2022, a hearing was held to determine whether the June 17<sup>th</sup> denial was correct. On the date of this hearing, the Appellant still had not submitted any of the outstanding documentation necessary to make an eligibility determination. During the hearing, the Appellant's representative requested a post-hearing record open period so that they would be able to produce the outstanding documentation. The request was granted.

Despite the additional time, the Appellant did not submit the required documentation. Therefore, the action taken by MassHealth was within the regulations. See 130 CMR 515.008 and 130 CMR 516.001.

Accordingly, 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.

Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

Appellant Representative: