

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Approved and remanded

Appeal Number: 2206158

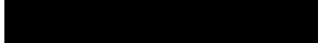
Decision Date: 11/1/2022

Hearing Date: 09/27/2022

Hearing Officer: Thomas Doyle

Record Open to:

Appearance for Appellant:



Appearance for MassHealth:

David Gelin; Karen Ryan

Interpreter:



*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:	Approved and remanded	Issue:	Verifications
Decision Date:	11/1/2022	Hearing Date:	09/27/2022
MassHealth's Rep.:	David Gelin; Karen Ryan	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (phone)	Aid Pending:	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 May 11, 2022, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that appellant did not give MassHealth the information or proof MassHealth needed to decide eligibility. (Ex. 1). The appellant filed this appeal in a timely manner on August 12, 2022. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's request for long term care services.

Issue

Was MassHealth correct in not making an eligibility determination after the record open period was closed and appellant provided all requested information to make an eligibility determination.

Summary of Evidence

Appellant entered a nursing facility [REDACTED]. He applied to MassHealth for long term care services in March 2022, requesting a start date of February 19, 2022. MassHealth sent appellant a request for information to help determine his eligibility in March 2022. MassHealth denied appellant's application for services in a denial letter dated May 11, 2022. Appellant then filed a request for a hearing on August 12, 2022 to appeal MassHealth's denial. On September 27, 2022, appellant's hearing convened with appellant present, his daughter, acting as his appeal representative present and a worker from MassHealth present. All were sworn and at the conclusion of the hearing the record was left open until October 18, 2022 for appellant to provide to MassHealth with missing verification in the form of four life insurance policies. Once provided, MassHealth would have until October 25, 2022 to review and respond. The four life insurance policies were provided to MassHealth. MassHealth did not approve, deny or seek additional verifications regarding appellant's application for services. MassHealth's position is the hearing issue was for verifications and now that all verifications had been received, a new determination will be issued.

Findings of Fact

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

1. Appellant was admitted to the nursing facility on [REDACTED]. (Ex. 6). Appellant filed an application for long term care services on March 25, 2022, with a MassHealth requested payment date of February 19, 2022. (Ex. 1; Ex. 5; Ex 6).
2. MassHealth sent appellant a request for information dated March 29, 2022, seeking missing verifications to determine eligibility. (Ex. 7).
3. MassHealth sent appellant denial notice #63906584 for long term care services on May 11, 2022. (Ex. 1).
4. Appellant appealed the MassHealth denial by filing a request for hearing form dated August 12, 2022. (Ex. 2).
5. Appellant appointed his daughter as his appeal representative. (Ex. 2; Ex. 3).
6. Appellant's hearing was scheduled for September 27, 2022 via notice dated September 7, 2022. (Ex. 4).
7. The hearing convened as scheduled. Appellant, his appeal representative and the MassHealth worker appeared. All were sworn.
8. The MassHealth worker testified that the only verifications missing were four life insurance policies. (Testimony; Ex. 5).
9. At the conclusion of the hearing, the record was left open until October 18, 2022 for

appellant to provide MassHealth with information for four different life insurance policies, the companies involved and the number of the policies having been stated at the hearing. MassHealth had through October 25, 2022 to review and respond. (Ex. 8, p.1-2).

10. On October 14, 2022, the hearing officer received an email from the MassHealth worker who represented MassHealth at hearing. He stated he was leaving the employ of MassHealth and that his supervisor, [REDACTED], would be “handling the appeal going forward”. (Ex. 9, p.5).
11. On October 19, 2022, the hearing officer received an email from [REDACTED] asking if he was in receipt of the life insurance documents from appellant. (Ex. 9, p. 5).
12. Later on October 19, 2022, the hearing officer received another email from [REDACTED] that MassHealth was able to locate the four insurance policy documents. She attached them to the email for the hearing officer’s reference. She wrote MassHealth will review and respond by October 25, 2022. (Ex. 9, p. 4).
13. On October 26, 2022, the hearing officer emailed the MassHealth representative, [REDACTED] inquiring about the status of the review by MassHealth. (Ex. 9, p. 4).
14. Within minutes, [REDACTED] responded MassHealth has all the verifications and can issue a new determination. (Ex. 9, p. 3-4).
15. The hearing officer emailed [REDACTED] for clarification, namely, was MassHealth approving appellant’s application. (Ex. 9, p. 3).
16. [REDACTED] responded to the hearing officer’s email. She stated that MassHealth believes this was a verification issue and now that all verifications have been received, a new determination will be issued using original application date. (Ex. 9, p. 3).
17. The hearing officer responded to [REDACTED] email stating his confusion as to MassHealth’s response to all verifications being submitted. The hearing officer noted to [REDACTED] that he carboned copied the appeal representative on the email. (Ex. 9, p. 3).
18. [REDACTED] responded to the hearing officer’s last email by writing the verification issue is resolved as all outstanding requested verifications have been received and will preserve the original application date. MassHealth has reviewed and accepted the life insurance policies, which was the issue on appeal. She wrote that is what she believed. No further verifications are needed at this time. (Ex. 9, p. 2).
19. The hearing officer then forwarded [REDACTED] email to the appeal representative, cc’ing [REDACTED], asking if she would like to withdraw appeal based upon [REDACTED] representations. (Ex. 9, p. 2).
20. The appeal representative emailed her response, stating she was confused and asked for

come clarification. (Ex. 9, p. 2).

21. The hearing officer then responded to both parties, referencing the email of the appeal representative. He asked [REDACTED] if the appellant's application for long term care has been approved. (Ex. 9, p. 1).
22. The hearing officer received a response about his question regarding appellant's application having been approved from a person who did not participate in the hearing. (Ex. 9, p. 1).

Analysis and Conclusions of Law

Under 130 CMR 515.008(A), an applicant or member must cooperate with MassHealth in providing information necessary to establish and maintain eligibility. After receiving an application, MassHealth requests all corroborative information necessary to determine eligibility. 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. If the requested information is received within 30 days of the date of the request, the application is considered complete. If it is not received within that time frame, MassHealth benefits may be denied. 130 CMR 516.001(C).

In this case, MassHealth sent a request for information to appellant on March 29, 2022. MassHealth stated they had reviewed appellant's application but needed more information to make a final decision about his eligibility. (Ex. 7). On May 11, 2022, MassHealth sent appellant a denial notice notifying him MassHealth was denying his March 25, 2022 application for long term care services because appellant did not provide the information needed to decide his eligibility. (Ex. 1). On August 12, 2022, appellant filed a timely fair hearing request form. (Ex. 2). The requested hearing convened on September 27, 2022. (Ex. 4). At hearing, MassHealth revealed the only verifications missing were information on four insurance policies. (Ex. 5; Testimony). The record was left open until October 18, 2022 for the appellant to provide the four insurance policies. MassHealth had until October 25, 2022 to review and respond. (Ex. 8, p. 1-2).

MassHealth admits it received the four insurance policies during the record open period. (Ex. 9, p. 4, 3 and 2). MassHealth contends the issue for the hearing was missing verifications and now that all verifications have been received, a new determination will be issued using original application date. (Ex. 9, p. 3).

Now that MassHealth has acknowledged all the verifications have been received, it can redetermine the appellant's eligibility.

This appeal is approved and remanded.

Order for MassHealth

Consider the appellant to have complied with the information request dated March 29, 2022. Notify the appellant of any additional information needed to determine his eligibility. Redetermine eligibility. Inform appellant of his eligibility. Include appeal rights.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]