

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2206267
<b>Decision Date:</b>	12/15/2022	<b>Hearing Date:</b>	09/22/2022
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	12/12/2022

**Appellant Representative:**



**MassHealth Representative:**

Patricia Rogers, Taunton MEC (by telephone)



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

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Verifications
<b>Decision Date:</b>	12/15/2022	<b>Hearing Date:</b>	09/22/2022
<b>MassHealth Rep.:</b>	Patricia Rogers	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (remote)		

## 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 August 10, 2022, MassHealth notified the appellant that his MassHealth application had been denied because he failed to give MassHealth the information needed to decide his eligibility (Exhibit 1). On August 19, 2022, the appellant timely filed an appeal and requested a fair hearing with the Board of Hearings (BOH) (Exhibit 2). Denial of assistance is a valid ground for appeal to the BOH (130 CMR 610.032).

The appeal record was held open for the appeal representative to submit missing verifications. The hearing officer extended the record-open period twice at the request of the appeal representative. Documents were ultimately submitted by the appeal representative and reviewed by MassHealth. The hearing officer closed the record of this appeal on December 12, 2022.

## Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care coverage due to missing verifications.

## Issue

Was MassHealth was correct in denying the appellant's MassHealth application?

## Summary of Evidence

A MassHealth representative from the Taunton MassHealth Enrollment Center (MEC) testified by telephone that appellant, who is over age 65, filed a MassHealth application seeking long-term care coverage June 28, 2022. The appellant entered a nursing facility in [REDACTED]. The MassHealth representative testified that in [REDACTED], he was discharged from one facility, and admitted to a different nursing facility.<sup>1</sup> The appellant's current nursing facility is seeking coverage for the appellant's stay effective July 1, 2022 (Testimony, Exh. 1).

The MassHealth representative testified that she sent a request for corroborative information (VC-1 Form) to the appellant on July 6, 2022, due back to MassHealth on August 5, 2022 (Exh 5). Not all requested information was timely received, so MassHealth sent a written denial notice to the appellant on August 10, 2022 (Exh. 1). As of the appeal hearing date, the appellant had not produced monthly statements for his Individual Retirement Account (IRA) with [REDACTED], for the period September 1, 2021 to present, identifying all debits from/credits to the account in the amounts of \$1,500.00 or more. The MassHealth representative testified that the appellant already verified two accounts he has with [REDACTED] (one checking and one savings account), but the MassHealth representative added that neither bank account shows deposits of the appellant's Social Security benefit payments from August 1, 2021 to the present. Thus, according to the MassHealth representative, if the appellant has another account into which his monthly Social Security benefit payments are deposited, MassHealth will need monthly statements for that account as well, from August, 2021 to present (Testimony).

The appellant was represented at hearing by a consultant, who testified telephonically. She indicated that the appellant has a legal guardian, who was appointed by the probate court in April, 2022.<sup>2</sup> The consultant testified that appellant does receive Social Security benefits. The consultant asserted that the appellant made an error on his long-term care application when he indicated that he has an IRA with [REDACTED]; instead, he has a pension annuity with [REDACTED]. Per documents the consultant sent via e-mail to the hearing officer on the evening prior to the appeal hearing, the appellant's pension benefit payments will not begin until November 1, 2022 (Exh. 6).<sup>3</sup>

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<sup>1</sup> However, this testimony conflicts with the information contained on the completed SC-1 Form sent to MassHealth by the second nursing facility (Exh. 5).

<sup>2</sup> The hearing officer called the court-appointed guardian (employed by Public Guardian Services, LLC) twice at the outset of the hearing, but the calls went to her voicemail.

<sup>3</sup> However, other correspondence from the consultant states that the appellant will not be eligible to start drawing his pension benefits until the age of 72 (Exh. 14).

The MassHealth representative stated that if the appellant has no IRA, she would like the page of the appellant's MassHealth application reporting an IRA to be corrected and sent back to MassHealth; or in lieu of such an amended page being filed, the MassHealth representative would accept a letter from the appellant's guardian stating that the appellant does not own an IRA. In addition, she stated that if the appellant has a personal needs allowance (PNA) account at the nursing facility, MassHealth will need a copy of the balance in the account (Testimony).

The consultant testified that [REDACTED] accounts owned by the appellant were both closed by the bank in April, 2022 due to inactivity. With regard to the appellant's Social Security benefit checks, the consultant testified that she believes that the nursing facility where the appellant resides is the representative-payee for the appellant's benefit check. She stated that she would confirm this with the facility, and if the facility is not the representative-payee, she will track down where the appellant's Social Security checks are being deposited. She requested additional time to gather the requested documentation. The hearing officer agreed to keep the record open for four weeks, or until October 20, 2022, for the appellant to produce responsive documentation, and for one additional week, or until October 27, 2022, for MassHealth to review the responsive documentation and to respond (Exh. 7).

On or about October 18, 2022, the hearing officer received via e-mail from the consultant correspondence, which was copied to MassHealth, seeking a thirty-day extension of time for the appellant to produce the requested documentation, stating as follows:

The Guardian Company applied for re-payee in July and is still waiting for approval to get ahold of the clients social security income.

(Exh. 8)

By e-mail correspondence to the parties on the same date, the hearing officer agreed to extend the record-open period until November 21, 2022 for the appellant to produce the requested documentation, and granted another week, or until November 28, 2022, for MassHealth to respond (Exh. 9).

On or about November 18, 2022, the hearing officer received e-mail correspondence from the consultant, which was copied to MassHealth, stating in pertinent part:

The Guardian company applied to be appointed rep-payee back in July and never heard back. They physically went into [the Social Security office] for a second time with the application to the Quincy office the week of October 20<sup>th</sup> to gain control of [the appellant's] payments.

Unfortunately they were told that there is a back log of applications and it would be at least 2 weeks for them to look at their request.

I am writing to request an open record for another 2 weeks because I do not have the verifications to give on the whereabouts of his social security payments.

(Exh. 10)

On the same date, November 18, 2022, the hearing officer sent correspondence via e-mail to the parties, stating as follows:

For the reasons stated by [the consultant], the appellant may have until close of business Monday, December 5 to identify into which account the appellant's Social Security is being deposited. No further extensions will be granted.

MassHealth may then have until close of business Monday, December 12 to respond.

(Exh. 11)

On December 5, 2022, the hearing officer received from the consultant, via e-mail, a copy of an October 7, 2022 letter from the appellant's guardian stating that the appellant does not have an IRA with [REDACTED], a copy of November 14, 2022 correspondence from the Social Security Administration apprising Public Guardian Services, LLC that they were chosen as the appellant's representative-payee for his Social Security benefits, and a copy of e-mail correspondence from the appellant's legal guardian dated November 30, 2022 stating that the Social Security Administration would not provide the legal guardian with information about the disposition of the appellant's Social Security benefit checks prior to the date of the legal guardian's appointment as the representative-payee (Exhs. 12A, 12B, and 12C).<sup>4</sup>

The consultant did not provide any documentation addressing if the appellant has a PNA account at the nursing facility, and if so, what the balance in the account is.

On December 6, 2022, the hearing officer received e-mail correspondence from the MassHealth representative, which was copied to the consultant, stating:

I have not yet received any proof of where the [appellant's] social security has been deposited since 8/1/21.

(Exh. 13)

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<sup>4</sup> The hearing officer forwarded copies of these documents to the MassHealth representative via e-mail on December 5, 2022.

## Findings of Fact

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

1. The appellant, who is over age 65, filed an application for MassHealth long-term care benefits in June, 2022 (Testimony).
2. The appellant was admitted to a nursing facility in [REDACTED], and the appellant is seeking coverage for his nursing home stay effective July 1, 2022 (Testimony, Exh. 5).
3. MassHealth sent a Request for Information (VC-1) to the appellant in July, 2022 seeking documents corroborating his income and assets, due back to MassHealth in August, 2022 (*Id.*).
4. Not all corroborative information was timely received, so MassHealth denied the appellant's application by notice to the appellant dated August 10, 2022 (Testimony, Exh. 1).
5. The appellant filed a timely appeal of this denial with the BOH on August 19, 2022 (Exh. 2).
6. The appellant has a legal guardian (Exh. 3).
7. As of the hearing date, the appellant had not verified whether he has an IRA, where his Social Security benefit checks were deposited from August, 2021 to present, and whether he has a PNA account at the nursing facility (Testimony).
8. Following the appeal hearing, during a lengthy record-open period, the appellant verified that he has no IRA, and that he has a private pension annuity that he has not yet begun to draw on (Exh. 12A, Exh. 14).
9. As of December, 2022, the appellant's guardian will be the representative-payee for the appellant's Social Security benefit check (Exh. 12B).
10. The appellant failed to verify where his Social Security benefits were deposited from August, 2021 to December, 2022, and failed to verify whether he has a PNA account at the nursing facility (Exh. 12C).

## Analysis and Conclusions of Law

A MassHealth applicant or member must cooperate with MassHealth in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of the MassHealth program including recovery (130 CMR 515.008(A)). Once an application for benefits is received, MassHealth requests all corroborative information necessary to determine eligibility, advises the applicant that the requested information must be received within thirty

days of the date of the request, and of the consequences of failure to provide the information (130 CMR 516.001(B)). If the requested information is not received, MassHealth benefits may be denied (130 CMR 516.001(C)).

In particular, MassHealth regulation 130 CMR 516.001(A), “Filing an Application,” states:

**(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 Senior Application online at [www.MAHealthConnector.org](http://www.MAHealthConnector.org), complete a paper application, complete a telephone application, or apply in person at a MassHealth Enrollment Center (MEC).

**(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).**

(Emphasis added)

Further, an applicant over age 65 who is institutionalized must verify the value of all countable assets pursuant to 130 CMR 520.007, and the value of all countable income pursuant to 130 CMR 520.009.

In this case, despite being given additional time following the hearing to submit the outstanding documentation, the appellant did not verify the whereabouts of his countable income, *to wit*, his Social Security benefits, nor did he verify the amount, if any, of his PNA account at the nursing facility.

MassHealth’s decision to deny the appellant’s application was correct.

The appellant may submit a new MassHealth application for long-term coverage, with supporting documentation, at any time.

However, at this time, the appeal must be 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.

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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Justine Ferreira, Appeals Coordinator, Taunton MEC

[REDACTED]