

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206948
Decision Date:	1/18/2023	Hearing Date:	10/19/2022
Hearing Officer:	Scott Bernard	Record Open to:	01/10/2023

Appearance for Appellant:



Appearance for MassHealth:

Kristin McMahon (Tewksbury 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:	Long Term Care (LTC) Eligibility
Decision Date:	1/18/2023	Hearing Date:	10/19/2022
MassHealth's Rep.:	Kristin McMahon	Appellant's Rep.:	[REDACTED]
Hearing Location:	Tewksbury 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 July 19, 2022, MassHealth denied the appellant's application for MassHealth LTC benefits because MassHealth determined that he did not give it the information necessary to decide his eligibility within the required timeframe. (See 130 CMR and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on September 19, 2022. (See 130 CMR 610.015(B); Eligibility Operations Memo 22-10; and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the request of the appellant's representative, the record was left open until November 18, 2022 to allow for the submission of verifications. (Ex. 5). The appellant's representative requested an extension, which was granted until January 3, 2023. (Ex. 6; Ex. 7, p. 1). On January 10, 2023, the MassHealth representative informed the hearing officer that she had received no verifications at which time the record closed. (Ex. 7, p. 1).

Action Taken by MassHealth

MassHealth denied the appellant's LTC application because he did not submit the information necessary to determine whether he was eligible for LTC benefits.

Issue

The first appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008 and 516.001 , in determining that the appellant did not give it the information necessary to determine whether he was eligible. If the appellant did not give MassHealth that information, the second appeal issue was whether he was able to remedy that failure during the appeal process.

Summary of Evidence

The MassHealth representative testified to the following. The appellant is an individual over the age of 65. (Ex. 4, p. 2). On June 3, 2022, MassHealth received the appellant's LTC application. (Ex. 4, p. 2). On June 13, 2022, MassHealth issued a notice requesting that the appellant submit certain specified verifications in order to determine whether he was eligible for MassHealth LTC benefits. (Ex. 4, pp. 3-5). The due date for submission of these verifications was July 13, 2022. (Ex. 4, p. 4). MassHealth did not receive the requested verifications by July 13, 2022. On July 19, 2022, MassHealth issued a notice denying the appellant's application for LTC benefits because he did not submit the requested verifications. (Ex. 1). The MassHealth representative stated that as of the date of the hearing, MassHealth had not received the verifications. (Ex. 4, p. 1). The MassHealth representative provided a list of documents that were necessary to determine the appellant's eligibility. The appellant's representative stated that the appellant has had cancer and was not able to procure the documents MassHealth requested. The appellant's representative stated that she would be able to submit the requested documents within 30 days.

For that reason, the record was left open until November 18, 2022 for the appellant's representative to submit the following documentation to both the MassHealth representative and the hearing officer:

1. From nursing facility:
 - a. SC-1 form
 - b. Nursing Facility Screening Notification form
 - c. Private pay letter listing all private payments for room and board and dates paid
 - d. Personal Needs Account Statement
2. Power of Attorney form for Authorized Representative (the appellant's representative). (Ex. 5).

The MassHealth representative was given a further seven days to determine whether she received the listed verifications. On November 17, 2022, the Board of Hearings received a letter from the appellant's representative requesting an extension. (Ex. 6). The due date for submission of the verification was therefore extended to January 3, 2023. (Ex. 7, p. 1). On January 10, 2023, the MassHealth representative emailed the hearing officer (copying the appellant's representative) stating that she had yet to receive any documents, at which time the record closed. (Ex. 7, p. 1).

Findings of Fact

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

1. The appellant is an individual over the age of 65. (Ex. 4, p. 2).
2. On June 3, 2022, MassHealth received the appellant's LTC application. (Ex. 4, p. 2).
3. On June 13, 2022, MassHealth issued a notice requesting that the appellant submit certain specified verifications in order to determine whether he was eligible for MassHealth LTC benefits. (Ex. 4, pp. 3-5).
4. The due date for submission of these verifications was July 13, 2022. (Ex. 4, p. 4).
5. MassHealth did not receive the requested verifications by July 13, 2022. (Testimony of the MassHealth representative).
6. On July 19, 2022, MassHealth issued a notice denying the appellant's application for LTC benefits because he did not submit the requested verifications. (Ex. 1).
7. As of the date of the hearing, MassHealth had not received the verifications. (Testimony of the MassHealth representative; Ex. 4, p. 1).
8. At the appellant's representative's request, the record was left open until November 18, 2022, to allow for submission of listed verifications. (Ex. 5).
9. The appellant's representative requested an extension on November 17, 2022. (Ex. 6).
10. The record open date was extended to January 3, 2023 for the appellant's representative. (Ex 7, p. 1).
11. On January 10, 2023, the MassHealth representative emailed the hearing officer (copying the appellant's representative) stating that she had yet to receive any documents, at which time the record closed. (Ex. 7, p. 1).

Analysis and Conclusions of Law

MassHealth applicants must cooperate in providing information necessary to establish eligibility and must comply with all the rules and regulations of MassHealth. (130 CMR 515.008(A)). Once MassHealth receives an application for LTC benefits it will send the applicant written notification (generally within five days) requesting all corroborative information necessary to determine eligibility. (130 CMR 516.001(B)(1)). The notice advises the applicant that the requested information must be received within 30 days of the date of the request and explains the consequences of failure to provide the information. (130 CMR 516.001(B)(2)). If the requested information is received

within 30 days¹, MassHealth will determine the coverage type providing the most comprehensive benefits for which the applicant is eligible. (130 CMR 516.001(C)). If the requested information is not received within 30 days of the request, MassHealth benefits may be denied. (Id).

The record shows that after the appellant submitted the application, MassHealth sent the appellant a request for information on June 13, 2022 requesting submission of specified verifications by July 13, 2022. The MassHealth representative testified that MassHealth did not receive the requested documents on or after July 13, 2022, a fact the appellant's representative did not dispute. MassHealth therefore acted properly in denying the application for LTC services on July 19, 2022.

Pursuant to the timely appeal of the denial, the record was left open in order to allow the appellant (through his representative) further time to submit the requested documents. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)). The appellant's representative was given until November 18, 2022 to submit the verifications. On November 17, 2022, the appellant's representative requested an extension. The due date was therefore extended until January 3, 2023. The appellant's representative did not submit any documentation by that date. The MassHealth representative reported by email on January 10, 2023 that she had not received the requested verifications. The evidence is therefore insufficient to allow MassHealth to make an eligibility determination at this time.

For the above stated reasons, 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957

¹ There is an exception for information concerning citizenship, identity, and immigration status. (130 CMR 516.001(C)). None of these categories of information are relevant to this case, however.