

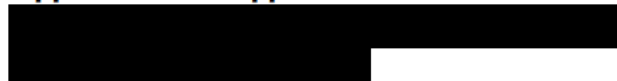
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2208098
Decision Date:	12/20/2022	Hearing Date:	11/15/2022
Hearing Officer:	Paul C. Moore	Record Closed:	12/13/2022

Appearance for Appellant:



Appearance for MassHealth:

Patricia Rogers, Taunton MassHealth
Enrollment Center (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

Appeal Decision:	Denied	Issue:	Verifications
Decision Date:	12/20/2022	Hearing Date:	11/15/2022
MassHealth Rep.:	Patricia Rogers	Appellant Rep.:	Medicaid Specialist
Hearing Location:	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 September 28, 2022, MassHealth notified appellant that he is not eligible for MassHealth benefits because he did not submit the information it needs to decide his eligibility within the required time frame (Exhibit 1). The appellant filed this appeal with the Board of Hearings in a timely manner on November 8, 2022 (Exhibit 2).¹ Denial of assistance is a valid ground for appeal to BOH (130 CMR 610.032).

Action Taken by MassHealth

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

¹ MassHealth Eligibility Operations Memo 20-09, "MassHealth Response to Coronavirus Disease 2019 (COVID-19)," issued April 7, 2020, states in relevant part: "In response to the current Coronavirus Disease 2019 (COVID-19) national emergency, MassHealth is implementing the following protocols to support the public health efforts to expedite medical care and maintain care for both new MassHealth applicants and existing members. Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of the 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**" (emphasis added).

Issue

Was MassHealth was correct in denying appellant's application for MassHealth benefits?

Summary of Evidence

A MassHealth representative from the Taunton MassHealth Enrollment Center ("MEC") testified by telephone that the appellant is over age 65, and was admitted to a nursing facility in [REDACTED]. The appellant filed an application for MassHealth long-term care coverage in August, 2022. The MassHealth representative noted that this was the second MassHealth application for long-term care services filed by the appellant; the previous application was filed in March, 2022, which MassHealth denied for missing verifications. The MassHealth representative stated that she had no knowledge of any prior fair hearing being held concerning the previous MassHealth denial (Testimony).

Regarding the appellant's current application, the MassHealth representative noted that the earliest coverage date MassHealth could potentially award is May 1, 2022. The MassHealth representative testified that after receipt of the current application, MassHealth sent a request for corroborative information about the assets and income of the appellant and his spouse (VC-1 Form) to the appellant on August 24, 2022, which was due back to MassHealth on September 23, 2022. Not all corroborative information was timely received, so MassHealth sent the appellant a written denial notice dated September 28, 2022 (Exh. 1).

As of the date of this appeal hearing, MassHealth still needs the following documentation: completion of pages 6 through 11 of the appellant's MassHealth application; monthly statements for the appellant's [REDACTED] account from December 1, 2020 to present, identifying the purposes of all debits/withdrawals from this account in the amounts of \$1,500.00 or more, and the sources of all deposits into this account in the amounts of \$1,500.00 or more; and information concerning the appellant's spouse's income and assets, including bank statements from December, 2020 to present; or if the appellant is divorced from his spouse, a copy of the couple's divorce decree. The MassHealth representative explained that if the appellant and his spouse are legally married, a portion of the couple's assets and the spouse's income are countable to the appellant (Testimony, Exh. 4).²

² A copy of the relevant page of the appellant's MassHealth application is included in the MassHealth hearing packet, reflecting that the appellant and his spouse were "separated" and that the couple does not live together (Exh. 4, p. 7).

The appellant was represented at hearing by a Medicaid specialist with the nursing facility, who testified by telephone that the appellant is not of sound mind, that he has been unable to get the bank statements requested by MassHealth, and that the facility has recently decided to seek a conservator for the appellant. He noted that no petition for an appointment of a conservator has yet been filed in probate court. The specialist testified that the appellant's family is not cooperating in the application process. The specialist testified that he believes that the appellant and his spouse are divorced, and he will try to obtain a copy of the divorce decree (Testimony).

The hearing officer noted that the appellant has been a resident of the facility since early [REDACTED], and questioned why a conservator appointment was not sought already. The hearing officer explained to the parties that he cannot keep the record of this appeal open beyond thirty days for the appellant to have a conservator appointed.

At the close of the hearing, the hearing officer agreed to keep the record of this appeal open for thirty days, or until December 13, 2022, for the appellant to provide the requested bank statements, completed pages six through eleven of the MassHealth application, and information about the appellant's spouse's assets and income, or alternatively, a copy of the couple's divorce decree (Exh. 5). The hearing officer also agreed to keep the record open for one additional week, or until December 20, 2022, for MassHealth to respond whether all required verifications have been submitted (*Id.*).

As of December 13, 2022, no additional documentation was received by MassHealth or by the hearing officer, and no request to extend the record-open period was received by the hearing officer.

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 August, 2022 (Testimony, Exh. 4).
2. The appellant was admitted to a nursing facility in [REDACTED] (*Id.*).
3. MassHealth sent a Request for Information (VC-1 Form) to the appellant in August, 2022 seeking documents corroborating his income and assets, due back to MassHealth in September, 2022 (*Id.*).
4. Not all corroborative information was timely received, so MassHealth denied the appellant's application by notice to the appellant dated September 28, 2022 (Testimony, Exh. 1).
5. The appellant filed a timely appeal of this denial with the BOH on November 8, 2022 (Exh. 2).

6. The appellant is not of sound mind, but no guardian or conservator has yet been appointed for the appellant (Testimony).
7. The appellant listed a spouse on his MassHealth application, but indicated that he and his spouse are “separated” (Exh. 4, p. 7).
8. As of the hearing date, MassHealth still needed: completion of pages 6 through 11 of the appellant’s MassHealth application; monthly statements for the appellant’s [REDACTED] account from December 1, 2020 to present, identifying the purposes of all debits/withdrawals from this account in the amounts of \$1,500.00 or more, and the sources of all deposits into this account in the amounts of \$1,500.00 or more; and information concerning the appellant’s spouse’s income and assets, including bank statements from December, 2020 to present; or if the appellant is divorced from his spouse, a copy of the couple’s divorce decree (Testimony, Exh. 4).
9. The hearing officer left the record of this appeal open for thirty days for the appellant to provide the missing verifications (Exh. 5).
10. No additional verifications were received.

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, 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.

When an applicant or member is legally married, the community spouse's income and assets are counted in the applicant's eligibility determination. *See*, 130 CMR 520.005 and 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 his assets and income since December, 2020, nor did he verify the income and assets of his spouse, or alternatively, prove that he and his spouse are no longer legally married.

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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Justine Ferriera, Appeals Coordinator, Taunton MassHealth Enrollment Center