

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2208382

Decision Date: 1/20/2023

Hearing Date: 12/13/22

Hearing Officer: Stanley Kallianidis

Appellant Representative:



MassHealth Representative:

Linda Phillips, RN



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Denial of MFP Waiver
Decision Date:	1/20/2023	Hearing Date:	12/13/22
MassHealth Rep.:	Linda Phillips, RN		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

A notice dated October 24, 2022 was sent to the appellant stating that MassHealth had denied his application for a Moving Forward Plan (MFP) Community Living Waiver due to a lack of clinical eligibility (see 130 CMR 519.007(H) and Exhibit 1). The appellant filed this timely appeal on November 14, 2022 (Exhibit 2).

The denial of assistance is grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for a Home and Community-Based MFP Community Living Waiver.

Issue

Pursuant to 130 CMR 519.007(H), does the appellant meet the clinical requirements for an MFP Community Living Waiver?

Summary of Evidence

The MassHealth representative testified that the appellant's application for an MFP Community Living Waiver was denied due to a lack of clinical eligibility. Specifically, the appellant's application was denied because he was not an inpatient in a nursing facility or chronic disease or rehabilitation hospital with a continuous length of stay of 90 days or more at the time the application for the Waiver was filed (Exhibit 3).

The appellant applied for the waiver on October 7, 2022. According to the appellant's independent living specialist and representative, he has been an inpatient at Rhode Island Hospital, an acute care setting, since [REDACTED] 2022. While the appellant's representative indicated that the plan was to have him transferred into a skilled nursing facility as soon as one becomes available, it was explained to the representative that the application would not be processed any further, and that the application would be denied due to a lack of clinical eligibility (Exhibit 3).

The appellant's representative testified that the appellant needs the services of an MFP Community Living Waiver so that he can eventually transition to housing in the community. She testified that the appellant is still at Rhode Island Hospital because no skilled nursing home beds are currently available. She contended that it was unfair to deny the appellant an MFP Waiver because his circumstances of not being in a skilled nursing facility were beyond his control.

The appellant testified that he wants the MFP Waiver because he needs more services than what is currently available to him in the hospital.

Findings of Fact

The record shows, and I so find:

1. A notice dated October 24, 2022 was sent to the appellant stating that MassHealth had denied his application for an MFP Community Living Waiver due to a lack of clinical eligibility (Exhibit 1).
2. The appellant applied for the waiver on October 7, 2022 (Exhibit 3).
3. According to the appellant's independent living specialist and representative, he has been an inpatient at Rhode Island Hospital, an acute care setting, since [REDACTED] 2022 (Exhibit 3).
4. As of the hearing date, the appellant is still an inpatient at Rhode Island Hospital

(testimony).

Analysis and Conclusions of Law

The MFP Community Living Waiver, as authorized under section 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital services to receive specified waiver services, other than residential support services in the home or community, if he or she meets all of the following criteria:

- (i) is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
- (ii) is an inpatient in a nursing facility, chronic disease, or rehabilitation hospital, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital with a continuous length of stay of 90 or more days, excluding rehabilitation days;
- (iii) must have received MassHealth benefits for inpatient services, and be MassHealth eligible at least the day before discharge;
- (iv) needs one or more of the services under the MFP Community Living Waiver;
- (v) is able to be safely served in the community within the terms of the MFP Community Living Waiver; and
- (vi) is transitioning to the community setting from a facility, moving to a qualified residence, such as a home owned or leased by the applicant or a family member, an apartment with an individual lease, or a community-based residential setting in which no more than four unrelated individuals reside (130 CMR 519.007(H)(2)).

In the instant case, MassHealth denied the appellant's application for an application for an MFP Community Living Waiver due to a lack of clinical eligibility. Specifically, he was denied under 130 CMR 519.007(H)(2)(ii): he was not an inpatient in a nursing facility or chronic disease or rehabilitation hospital with a continuous length of stay of 90 days or more at the time the application for the Waiver was filed.

It is undisputed that the appellant has been an inpatient at Rhode Island Hospital, an acute care setting, since [REDACTED] 2022. As of the hearing date, the appellant is still an inpatient at Rhode Island Hospital.

Accordingly, due to a lack of clinical eligibility under 130 CMR 519.007(H)(2)(ii), the appellant is ineligible for an MFP Community Living Waiver at this time.

The appeal is therefore denied.

Order for the 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.

Stanley Kallianidis
Hearing Officer
Board of Hearings