

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2209588
Decision Date:	5/18/2023	Hearing Date:	01/26/2023
Hearing Officer:	Scott Bernard	Record Open to:	05/08/2023

Appearance for Appellant:



Appearance for MassHealth:

Kim McAvinchey (Tewksbury MEC) via
telephone



*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) Verifications
Decision Date:	5/18/2023	Hearing Date:	01/26/2023
MassHealth's Rep.:	Kim McAvinchey	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 December 9, 2022, MassHealth denied the appellant's application for MassHealth LTC benefits because MassHealth determined that she did not give it the information it needed to decide her eligibility in the requires time frame. (See 130 CMR and Exhibit (Ex.) 1, p. 2). The appellant filed this appeal in a timely manner on December 26, 2022. (See 130 CMR 610.015(B) and Ex. 3). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the request of the appellant's representative at the hearing, the record was left open to allow him to submit requested documentation. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)); Ex. 6). At the appellant's representative's request, and for good cause, the record open was extended several times until May 8, 2023. (Ex. 7). On May 8, 2023, the MassHealth representative emailed the hearing officer and the appellant's representative stating that she did not have certain verifications requested, at which time the record closed. (Ex. 7, pp. 256-258).

Action Taken by MassHealth

MassHealth denied the appellant's LTC application for failure to submit requested verifications in a timely manner.

Issue

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 516.001 and 515.008, in determining that the appellant did not submit requested verifications in a timely manner and whether the appellant was able to submit the requested verifications pursuant to the appeal process.

Summary of Evidence

The MassHealth representative testified that the appellant is an individual over the age of 65. (Ex. 5, p. 3). The appellant applied for LTC benefits on June 16, 2022, seeking a coverage start date of March 16, 2022. (Ex. 5, pp. 3-29, 30). On June 27, 2022, MassHealth sent the appellant an information request. On August 3, 2022, MassHealth issued a notice denying the appellant's application for failure to submit the information requested on June 27, 2022. The MassHealth representative indicated that the appellant appealed this notice in a timely fashion. The MassHealth representative also indicated that the appellant submitted some but not all of the information MassHealth initially requested. The appeal was therefore withdrawn on the condition that the application date be preserved.

For that reason, MassHealth sent the appellant a second information request on October 22, 2022. (Ex. 5, pp. 31-36). The second information request listed documentation that the appellant needed to submit by November 21, 2022. (Ex. 5, p. 32). The appellant did not submit the requested information by November 21, 2022 and for that reason, MassHealth issued the notice under appeal on December 9, 2022. (Ex. 1). The MassHealth representative provided a list of verifications that remained outstanding as of the date of the hearing. (Ex. 5, pp. 1-2).

The appellant's representative stated that this has been a difficult application to complete because the appellant is not able to help and her daughter is undergoing cancer treatment and it has been difficult for her to help. The appellant's representative asked for 30 days to submit the requested documentation. For that reason, the appellant's representative was given until February 27, 2023 to submit the following verifications:

1. Pensions: Proof of current 2022 gross monthly pension amount and all deductions for DFAS, USOPM, MassMutual and Nurses/Local 813 pensions (Applicant submitted 2021 1099s which is not proof of current pension.)
2. Federal Taxes: Copy of 2020 and 2021 Federal taxes with all 1099s, schedules, forms and proof source of all income including interest. (Applicant sent State taxes which were not requested.)

3. Interest Income: Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is [REDACTED] ['] – remaining amount of interest income is unknown, \$71 interest on 2021 taxes.)
4. [REDACTED]: Proof date closed, amount of withdrawal and how closing withdrawal disbursed. (Applicant submitted transaction history which does not verify account number, closing date or closing withdrawal)
5. Property Sale – [Property Street Address and Location]: Proof how/where closing withdrawal disbursed. (Proceeds from property sale \$112,054.84 on 11/09/20.) If funds deposited to bank account, requested to send account statements with canceled checks from 9/01/20 to present, with proof source of all deposits (except direct deposit SS and pension) and proof disbursements \$1000 and over.
6. [REDACTED]: Proof source of all deposits of any amount. Not received: \$4,876.08 opening deposit on 04/15/22; \$600.00 - 05/04/22; \$999.19 - 05/17/22; \$2,000.00 - 05/24/22.
7. Mobile Home: Proof source of funds for purchase of mobile home in 2019. Proof of transfer date and fair market value of mobile home at time of transfer to [the appellant's son] and [the appellant's daughter]. (Received unsigned bill of sale/transfer.)
8. [REDACTED]: Statements 2/01/22 to present with all canceled checks, explanation/proof source of all deposits of any amount and proof all disbursements \$1000 and over.
9. [REDACTED] (newly disclosed asset with last submission): Proof of 2017 value. Explanation/proof for all disbursements except RMDs from 2017 to present.
10. Health Insurance: Copy of SS, Medicare and all insurance card and proof current 2022 monthly premium for supplemental insurance coverage. (Ex. 6).

The MassHealth representative requested that she be given until March 20, 2023 to respond. (Id.).

On March 20, 2023¹, the MassHealth representative emailed the hearing officer and the appellant's representative the following statement²:

...The following verifications were not received by the appellant:

Federal Taxes

Copy of 2020 and 2021 Federal taxes with all 1099s, schedules, forms and proof source of all income including interest.

Not provided[.] Appellant provided copy of fax for 4506-T sent on 1/30/23.

¹ The hearing officer did not receive a copy of the requested documents.

² The hearing officer has reformatted the following block quotation. In addition to removing some line breaks, he has enclosed the MassHealth representative's commentary, originally in a different color, in a box.

Appellant did not explain/identify any other attempts to provide this verification such as contacting [REDACTED] who prepared appellant's tax returns.

Interest Income

Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is [REDACTED]) – remaining amount of interest income is unknown, \$71 interest on 2021 taxes.)

Not provided[.] Appellant did not explain/identify any additional attempts to identify source of income, for example, checking other bank accounts for year end interest figures which may have matched tax return or contacting [REDACTED] for copies of 1099s. Interest income represents potential unknown asset(s).

[REDACTED]
Proof date closed, amount of withdrawal and how closing withdrawal disbursed. (Applicant submitted transaction history which does not verify account number, closing date or closing withdrawal)

Not provided[.] Submitted duplicate transaction history with no account number. With no verified account number, these transactions represent a potential unknown asset.

Property Sale – [Property Street Address and Location]

Proof how/where closing withdrawal disbursed. (Proceeds from property sale \$112,054.84 on 11/09/20.) If funds deposited to bank account, requested to send account statements with canceled checks from 9/01/20 to present, with proof source of all deposits (except direct deposit SS and pension) and proof disbursements \$1000 and over.

Did not receive statement for 9/1/20 to 9/30/20. Did not receive canceled checks[.] Did not receive verifications for deposits and withdrawals:
Deposits \$1,823.29 12/4/20, \$3,000.00 3/1/21, \$23.90 4/2/21, 40.00 4/2/21
Withdrawals \$3,000 2/6/21, \$44,892.04 3/1/21
Source of deposits represent potential unknown asset(s)[.]

[REDACTED]
Proof source of all deposits of any amount.
4,876.08 opening deposit on 04/15/22
600.00 - 05/04/22
999.19 - 05/17/22
2,000.00 - 05/24/22

Not provided[.] Appellant states opening deposit \$4,876.08 was a check from [REDACTED] and states there is not copy of check. A copy of this check could have been obtained from bank with explanation why appellant is receiving a

check from [REDACTED]. Other deposits were made after appellant entered nursing home, but states there is no knowledge of where these funds came from after she [sic] admitted to facility. Appellant did not provide copies of check(s) from bank, for example, \$999.19 is most likely a check, or any deposit slips from bank to show a cash deposit. These deposit [sic] represent unknown, potential assets.

Mobile Home

Proof source of funds for purchase of mobile home in 2019.

Provided partial verification. Appellant paid \$45,405 received from a loan with [REDACTED] on 11/15/19. The selling price was \$86,500 and appellant states Selling price was \$86,500 and appellant states rest of funds were from life insurance policy from spouse. No proof provided for source of additional funds to purchase mobile home. Source of remaining funds used for purchase represents potential unknown asset(s).

Proof of transfer date and fair market value of mobile home at time of transfer to [the appellant's son] and [the appellant's daughter].

Not provided[.]

[REDACTED] (newly disclosed asset with last submission)

Proof of 2017 value. Explanation/proof for all disbursements except RMDs from 2017 to present.

Not provided. This is a newly disclosed unknown asset.

Health Insurance

Copy of SS, Medicare and all insurance card and proof current 2022 monthly premium for supplemental insurance coverage.

Not provided[.] Appellant submitted copy of credit card charge for \$87.99. This does not verify monthly premium, for example, payment could have included a past due amount. Copy of cards not provided, no verification of appellant's insurance company or ID.

MassHealth is unable to determine eligibility when appellant has not disclosed and verified all assets and the MassHealth denial stands...(Ex. 7, pp. 1-3).

At the appellant's representative's request, the record open was extended to April 4, 2023. (Ex. 7, pp. 4, 7, 9). On April 3, 2023, the appellant's representative and his office submitted documents to the MassHealth representative both by fax and email.³ (Ex. 7, pp. 11-13). The appellant's representative wrote that he had exhausted all avenues in trying to access records and that if it was determined that there were any missing items then that they be deemed

³ See Note 1, above.

inaccessible. (Ex. 7, p. 13).

On April 14, 2022, the MassHealth representative emailed the following response⁴:

As a follow up to the appellant's last submission of 4/3/23, [the appellant's representative] stated he was resubmitting over 384 pages. The cover letter with the submission states "per [MassHealth] request" the submission contained "duplicate copies of the numerous exhibits we have provided [MassHealth] in the past." It appears that the multiple attachments to several emails are also duplicates of the same information.

MassHealth requested only the specific verifications listed below, not duplicate copies of verifications already submitted. Verifications previously submitted have already been reviewed and MassHealth determined what verifications remained outstanding.

MassHealth did receive tax returns and 1099s with one exception listed below. Again, the MassHealth response is shown in red⁵ to [be identified more easily]. Outstanding verifications remain the same with the exception of the tax returns.

Interest Income 2020

Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is [REDACTED] ['] – remaining amount of interest income is unknown.)

The remaining interest \$101 for 2020 tax return not verified. Interest income represents potential unknown asset(s).

[REDACTED]
Proof date closed, amount of withdrawal and how closing withdrawal disbursed. (Applicant submitted transaction history which does not verify account number, closing date or closing withdrawal)

Not provided[.] Submitted duplicate transaction history with no account number. With no verified account number, these transactions represent a potential unknown asset.

Property Sale – [Property Street Address and Location]

Proof how/where closing withdrawal disbursed. (Proceeds from property sale \$112,054.84 on 11/09/20.) If funds deposited to bank account, requested to send account statements with canceled checks from 9/01/20 to present, with proof source of all deposits (except direct deposit SS and pension) and proof disbursements \$1000 and over.

⁴ See Note 2, above.

⁵ See Note 2, above

Did not receive statement for 9/1/20 to 9/30/20. Did not receive canceled checks[.] Did not receive verifications for deposits and withdrawals:
Deposits \$1,823.29 12/4/20 , \$3,000.00 3/1/21, \$23.90 4/2/21, 40.00 4/2/21[.]
Withdrawals \$3,000 2/6/21, \$44,892.04 3/1/21[.] Source of deposits represent potential unknown asset(s)

████████████████████
Proof source of all deposits of any amount. 4,876.08 opening deposit on 04/15/22
600.00 - 05/04/22
999.19 - 05/17/22
2,000.00 - 05/24/22

Not provided[.] Appellant states opening deposit \$4,876.08 was a check from ██████████ and states there is not copy of check. A copy of this check could have been obtained from bank with explanation why appellant is receiving a check from ██████████. Other deposits were made after appellant entered nursing home, but states there is no knowledge of where these funds came from after she admitted to facility. Appellant did not provide copies of check(s) from bank, for example, \$999.19 is most likely a check, or any deposit slips from bank to show a cash deposit. These deposit [sic] represent unknown, potential assets.

Mobile Home

Proof source of funds for purchase of mobile home in 2019.

Provided partial verification. Appellant paid \$45,405 received from a loan with ██████████ on 11/15/19. The selling price was \$86,500 and appellant states Selling price was \$86,500 and appellant states rest of funds were from life insurance policy from spouse. No proof provided for source of additional funds to purchase mobile home. Source of remaining funds used for purchase represents potential unknown asset(s).

Proof of transfer date and fair market value of mobile home at time of transfer to [the appellant's son] and [the appellant's daughter].

Not provided

██████████ (newly disclosed asset with last submission)

Proof of 2017 value. Explanation/proof for all disbursements except RMDs from 2017 to present.

Not provided. This is a newly disclosed unknown asset.

Health Insurance

Copy of SS, Medicare and all insurance card and proof current 2022 monthly premium for supplemental insurance coverage.

Not provided[.] Appellant submitted copy of credit card charge for \$87.99. This does not verify monthly premium, for example, payment could have included a past due amount. Copy of cards not provided, no verification of appellant's insurance company or ID.

MassHealth is unable to determine eligibility when appellant has not disclosed and verified all assets and the MassHealth denial stands. Some of the outstanding verifications may be determined to be disqualifying transfers, however, without verification of all assets, the eligibility determination cannot be made. (Ex. 7, pp. 14-16).

In response, the appellant's representative stated that he was out of town and indicated that he has impressed the urgency of the situation on the family. (Ex. 7, p. 17). He also stated that the MassHealth representative had an unsigned bill of sale for the home because the transfer did not happen. (Id.). In an email dated April 15, 2023, the appellant's representative argued that he believed that they had substantially complied with the record open request, that "[i]dentifying a small interest credit without documentation is next to impossible to explain" and that he could not believe "a Court would have the patience to believe that the Division would hold someone's feet to the fire to force these issues on these minor issues." (Ex. 7, p. 18). The appellant's representative included an email response from the appellant's daughter stating the following:

Interest Income 2020

Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is [REDACTED] ['] – remaining amount of interest income is unknown.). The remaining interest \$101 for 2020 tax return not verified. Interest income represents potential unknown asset(s).

***I don't know where to find this. I have looked on statements and have not found this amount. I don't know what else to do. I'll give MassHealth the \$101 myself!

[REDACTED] Proof date closed, amount of withdrawal and how closing withdrawal disbursed. (Applicant submitted transaction history which does not verify account number, closing date or closing withdrawal) Not provided

***I have provided the letter from [REDACTED] in the past with a list of the accounts that have been closed with their FULL account numbers on them. Where has that gone to? I will send AGAIN

Submitted duplicate transaction history with no account number. With no verified account number, these transactions represent a potential unknown asset.

Property Sale – [Property Street Address and Location] Proof how/where closing withdrawal disbursed. (Proceeds from property sale \$112,054.84 on 11/09/20.) If funds deposited to bank account, requested to send account statements with canceled checks from 9/01/20 to present, with proof source of all deposits (except direct deposit SS and pension) and proof disbursements \$1000 and over.

***I have sent the statement where the \$112K went from the sale proceeds. There is no check. It was wired into the account. I will be giving copies of all the cancelled checks to [the appellant's son] to scan over to you. So those are not present in this email. There are a lot of pages and a lot of checks from 9/2020-Present. MassHealth can have fun looking through them all.

Did not receive statement for 9/1/20 to 9/30/20.

***I did send this statement the last time. It comes as a quarterly statement. You need to look at the dates to see. It is dated July 1st-Sept 30th. There was nothing in Sept 2020. I will send you a statement of her Checking account from Sept 2020, but I'm not sure that is what they are looking for.

Did not receive canceled checks Did not receive verifications for deposits and withdrawals: Deposits \$1,823.29 12/4/20 , \$3,000.00 3/1/21

***These 1st two I sent copies of the canceled checks. At the top of the page is all the info of when deposited. The 1823.29 says it was an escrow overage refund. RIGHT ON THE CHECK!. (Ex. 7, pp. 19-20).

The appellant's representative also attached a zip file with the following documents:

1. Statement dated March 1 through 31, 2022 for [REDACTED]. (Ex. 7, pp. 20-32).
2. Statement dated October 1 through December 31, 2020 for [REDACTED]. (Ex. 7, pp. 33-35).
3. Statement dated April 1 through April 30, 2021 for [REDACTED]. (Ex. 7, pp. 36-39).
4. Letter dated June 10, 2022 from [REDACTED] stating that the appellant's accounts ending [REDACTED] had been closed. (Ex. 7, p. 40).
5. [REDACTED] ['] Balance History for what appears to be the accounts ending 0361 and 4138 from June 4, 2021 through March 23, 2022. (Ex. 7, pp. 41-44).
6. [REDACTED] ['] Balance History for account ending [REDACTED] from June 30, 2021 through March 23, 2022. (Ex. 7, p. 45).

7. Statement dated January 30 through February 26, 2021 for [REDACTED] [REDACTED] (Ex. 7, pp. 46-49).
8. Statement dated October 1 through December 31, 2021 for [REDACTED] [REDACTED] (Ex. 7, pp. 50-52).
9. Statement dated July 1 through September 30, 2021 for [REDACTED] [REDACTED] (Ex. 7, pp. 53-55).
10. Statement dated April 1 through June 30, 2021 for [REDACTED] [REDACTED] (Ex. 7, pp. 56-58).
11. Statement dated January 1 through March 31, 2021 for [REDACTED] ['] account ending [REDACTED]. (Ex. 7, pp. 59-61).
12. Statement dated July 1 through September 30, 2020 for [REDACTED] ['] account ending [REDACTED]. (Ex. 7, pp. 62-64).
13. Statement dated February 27 through March 31, 2021 for [REDACTED] ['] account ending [REDACTED]. (Ex. 7, pp. 65-68).
14. Statement dated September 1 through 30, 2021 for [REDACTED] ['] account ending [REDACTED] (Ex. 7, pp. 69-72).

On April 17, 2023, the appellant's representative forwarded copies of cancelled checks from the [REDACTED] ['] account ending [REDACTED]. (Ex. 7, pp. 77-146).

At this point the hearing officer extended the record open to May 4, 2023. (Ex. 7, p. 148). The appellant's representative submitted the following on May 1, 2023:

In a follow up to your e-mail of April 14th, we are addressing each individual item:

Interest Income 2020

Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is [REDACTED] ['] - Remaining amount of interest income is unknown period)

The remaining interest \$101 for 2020 tax return not verified.

Interest income represents potential unknown asset (s).

We have been advised by the tax preparer that the interest of \$101.00 on the 2020 return is from the interest earned on the [REDACTED] life insurance proceeds after the death of the applicant's husband. We just learned and have requested backup information on the account but don't anticipate having it by the

deadline. We do know, however, that the proceeds were paid towards the purchase of the mobile home. Complete tax returns for 2020 and 2021 are again enclosed.

[redacted] closed account 0487

Proof date closed, amount of withdrawal and how closing withdrawal dispersed (applicants submitted transaction history which does not verify account number, closing date or closing withdrawal)

Not provided

Submitted duplicate transaction history with no account number.

With no verified account number these transactions represent a potential unknown asset.

We are submitting this again and probably for the third or fourth time period all of the information is detailed on the enclosed [redacted] statement including the account numbers and where the withdrawal was deposited.

Property Sale - [Property Street Address and Location]

Proof how/where closing withdrawal dispersed. (proceeds from property sale \$112,054.84 on 11/09/20.) if funds deposited to bank account, requested to send account statements with cancelled checks from 9/01/20 to present , with proof source of all deposits (except direct deposit SS and pension) and proof disbursements \$1000 and over.

Did not receive statement for 9/1/20 to 9/30/20

did not receive cancelled checks

Did not receive verifications for deposits and withdrawals :

Deposits \$1823.29 12/4/20, \$3000.00 3/1/21, \$23.90 4/2/21, 40.00 4/2/21

source of deposits represent [sic] potential unknown asset(s)

Again, there was a deposit of 112,000 [sic] and \$54.84 into the [redacted] [redacted] [sic] account which we have provided to you on several occasions. A duplicate copy is attached.

As to the deposits, duplicate copies of the deposits and checks are enclosed all of these have been previously verified and sent to you with the exception of the \$40 deposit which appears that it may have been cashed. In any event, a \$40 deposit should not even be in our discussion as it is really a bit of overreaching.

[redacted] [redacted]
Proof source of all deposits of any amount.
4,876.08 opening deposit on 04/15/22
600.00 – 05/04/22

999.19 – 05/17/22

2,000 – 05/24/22

Not provided

Appellant states opening deposit of \$4876.08 was a check from [REDACTED] and states there is not copy of check. A copy of this check could have been obtained from bank with explanation why appellant is receiving a check from [REDACTED].

Other deposits were made after appellant entered nursing home, but states there is no knowledge of where these funds came from after she admitted to facility. Appellant did not provide copies of check(s) from bank, for example \$999.19 is most likely a check, or any deposit slips from bank just show a cash deposit. These deposits represent unknown, potential assets.

Again, we have previously provided you with the proof of deposits for \$4876.08 and the \$999.19. We are again submitting these. As to the deposits of \$2000 and \$600, those are transfers from [REDACTED] as shown on the attached history account which you previously received. This should satisfy your inquiry.

Mobile Home

Proof source of funds for purchase of mobile home in 2019.

Provided partial verification.

Appellant paid \$45,405 received from a loan with [REDACTED] on 11/15/19 .

The selling price was \$86,500 and appellate states...rest of funds were from life insurance policy from spouse.

No proof provided for source of additional funds to purchase mobile home. Source of remaining funds used for purchase represents potential unknown asset (s).

Attached is the affidavit of [the appellant's son] relative to the inquiry regarding proof of funds. Both of the applicants [sic] children have made a diligent search and have been unable to locate any further details.

Proof of transfer date and fair market value of mobile home at time of transfer to [the appellant's son] and [the appellant's daughter].

Not provided

The mobile home was not transferred to [the appellant's son] and [the appellant's daughter]. If you have some type of written documentation other than a bank draft forming the transfer, please provide it to us.

We have previously provided to you the actual bill of sale of the mobile home to

a trust for a permanently and totally disabled grandchild.

██████ (newly disclosed asset with last submission)

Proof of 2017 value. Explanation/ proof for all disbursements except RMD's from 2017 to present.

Not provided.

This is a newly disclosed unknown asset.

We have been unable to locate the 2017 statement. Otherwise, we have provided all statements going forward . In any event, 2017 is 6 years ago and would not be relevant to your inquiry.

Health Insurance

Copy of SS, Medicare and all insurance card [sic] and proof current 2022 monthly premium for supplemental insurance coverage.

Not provided

Appellant submitted copy of credit card charge for \$87.99. This does not verify monthly premium, for example, payment could have included a past due amount. Copy of cards not provided, no verification of appellants insurance company or ID.

Once again, these documents have been previously provided and are again being submitted for with this response. (Ex. 7, pp. 159-162, 169-254).

The MassHealth representative responded with the following email on May 8, 2023:

Interest Income 2020

Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is ██████ ['] – remaining amount of interest income is unknown.)

The remaining interest \$101 from 2020 tax return has not been verified. Verification is required as this interest income represents potential unknown asset(s); e.g., cash value on a life insurance policy or other asset(s).

████████████████████ ██████
Proof source of all deposits of any amount.

600.00 - 05/04/22

2,000.00 - 05/24/22

These two deposits – received after admission to the facility - have not been verified. Verification is required as these deposits represent unknown, potential assets. Appellant's letter states these deposits "were transfers from ██████ ██████ but does not identify which of the five ██████ accounts

Mobile Home

Proof source of funds for purchase of mobile home in 2019.

Provided partial verification. No proof provided for source of additional funds to purchase mobile home. Appellant paid \$45,405 received from a loan with [REDACTED] on 11/15/19. Selling price was \$86,500 and appellant states rest of funds were from life insurance policy from spouse. The appellant received life insurance proceeds of an unknown amount and is required to verify so that MassHealth can determine if there any disqualifying transfers during the lookback period. Source of remaining funds used for purchase represents unknown asset(s). Appellant's representative states in 5/1/23 cover letter that the insurance proceeds were from [REDACTED] life insurance policy disbursed to appellant upon spouse's death. The policy proceeds have not been verified. The appellant's family is able to identify the insurance company and date of death, information which can be used to obtain verification of policy proceeds and how disbursed and spent down. This is required for MassHealth to determine if there are any disqualifying transfers.

Proof of transfer date and fair market value of mobile home at time of transfer to [the appellant's son] and [the appellant's daughter].

Partial verification received. MassHealth's request for this verification was based on the receipt from appellant of a Bill of Sale transferring mobile home for \$1.00 to [the appellant's son] and [the appellant's daughter]. The Bill of Sale was unsigned and undated and MassHealth requested additional information including date of transfer. The appellant has since provided a signed and dated document that mobile home was transferred to [the appellant's son] and [the appellant's daughter] as [REDACTED] on 3/10/22. MassHealth has not received proof of fair market value at time of transfer on 3/10/22. Verification of fair market value of a transfer is required as MassHealth will determine if it is considered a disqualifying transfer.

[REDACTED] (newly disclosed asset with last submission)

Proof of 2017 value. Explanation/proof for all disbursements except RMDs from 2017 to present.

This was an undisclosed asset and MassHealth has requested proof of 2017 value of this- asset to determine if there are any disqualifying transfers during the look-back period. The appellant's look-back period begins on 6/17/17. 130 CMR 520.018 - Transfers of resources are subject to a look-back period, beginning on the first date the individual is both a nursing-facility resident and has applied for MassHealth Standard. The appellant first applied for MassHealth on 6/17/22 while she was in the facility and her look-back period begins on 6/17/17.

[REDACTED]

Appellant submitted a batch of checks from account 3552 which included monthly premium payments to a [REDACTED]; for example, check 6647 for \$222.78 on 3/20/23.⁶ MassHealth requires verification for the reason for these payments. This is unknown potential asset.

Unknown Vehicle and/or Transfer

Also included with account 3552 checks was check 6624 on 4/21/22 payable to [REDACTED] and check 6486 on 5/24/21 payable to [REDACTED].⁸ Appellant did not disclose a vehicle on her application and did not disclose transfer of any vehicle. It is unknown if applicant had a vehicle and transferred after 4/21/22, which could be a potential disqualifying transfer or if applicant is paying expenses for a vehicle she does not own. MassHealth needs to determine if there was a vehicle and was there a transfer.

[REDACTED] account (?)

Appellant's submission included a check made out to appellant for \$3,000 on 2/27/21 from [REDACTED].⁹ MassHealth is unable to determine if appellant owns/owned any accounts at [REDACTED] in which case verifications are required.

MassHealth is unable to determine eligibility when appellant has not disclosed and verified all assets and MassHealth is unable to determine potential disqualifying transfers within the look-back period.

The MassHealth denial stands pending a decision from the Hearing Officer. (Ex. 7, pp. 256-258).

On May 8, the hearing officer informed the parties by email that the record had closed. (Ex. 7, p. 259).

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. 5, p. 3).
2. The appellant applied for LTC benefits on June 16, 2022, seeking a coverage start date of March 16, 2022. (Ex. 5, pp. 3-29, 30).

⁶ Ex. 7, p. 77.

⁷ Ex. 7, p. 87.

⁸ Ex. 7, p. 117.

⁹ Ex. 7, p. 222

3. On June 27, 2022, MassHealth sent the appellant an information request. (Testimony of the MassHealth representative).
4. On August 3, 2022, MassHealth issued a notice denying the appellant's application for failure to submit the information requested on June 27, 2022. (Testimony of the MassHealth representative).
5. The appellant appealed this notice in a timely fashion. (Testimony of the MassHealth representative).
6. The appellant submitted some but not all of the information initially requested, and the appeal was withdrawn on the condition that the application date be preserved. (Testimony of the MassHealth representative).
7. MassHealth sent the appellant a second information request on October 22, 2022. (Ex. 5, pp. 31-36).
8. The second information request listed documentation that the appellant needed to submit by November 21, 2022. (Ex. 5, p. 32).
9. The appellant did not submit the requested information by November 21, 2022. (Testimony of the MassHealth representative).
10. Through a notice dated December 9, 2022, MassHealth denied the appellant's application for MassHealth LTC benefits because MassHealth determined that she did not give it the information it needed to decide her eligibility in the requires time frame. (Ex. 1, p. 2).
11. The appellant filed an appeal of this notice in a timely manner on December 26, 2022. (Ex. 3).
12. At the request of the appellant's representative at the hearing, the record was left open to allow him to submit the following documentation:
 - 1) Pensions: Proof of current 2022 gross monthly pension amount and all deductions for [REDACTED], [REDACTED], [REDACTED] and [REDACTED] pensions (Applicant submitted 2021 1099s which is not proof of current pension.)
 - 2) Federal Taxes: Copy of 2020 and 2021 Federal taxes with all 1099s, schedules, forms and proof source of all income including interest. (Applicant sent State taxes which were not requested.)
 - 3) Interest Income: Proof source of interest income on tax returns: \$152 interest on 2020 taxes (\$51 is [REDACTED] ['] – remaining amount of interest income is unknown, \$71 interest on 2021 taxes.)
 - 4) [REDACTED] closed account [REDACTED]: Proof date closed, amount of withdrawal and how closing withdrawal disbursed. (Applicant submitted

- transaction history which does not verify account number, closing date or closing withdrawal)
- 5) Property Sale – [Property Street Address and Location]: Proof how/where closing withdrawal disbursed. (Proceeds from property sale \$112,054.84 on 11/09/20.) If funds deposited to bank account, requested to send account statements with canceled checks from 9/01/20 to present, with proof source of all deposits (except direct deposit SS and pension) and proof disbursements \$1000 and over.
 - 6) [REDACTED] checking [REDACTED]: Proof source of all deposits of any amount. Not received: \$4,876.08 opening deposit on 04/15/22; \$600.00 - 05/04/22; \$999.19 - 05/17/22; \$2,000.00 - 05/24/22.
 - 7) Mobile Home: Proof source of funds for purchase of mobile home in 2019. Proof of transfer date and fair market value of mobile home at time of transfer to [the appellant's son] and [the appellant's daughter]. (Received unsigned bill of sale/transfer.)
 - 8) [REDACTED] checking [REDACTED]: Statements 2/01/22 to present with all canceled checks, explanation/proof source of all deposits of any amount and proof all disbursements \$1000 and over.
 - 9) (newly disclosed asset with last submission): Proof of 2017 value. Explanation/proof for all disbursements except RMDs from 2017 to present.
 - 10) Health Insurance: Copy of SS, Medicare and all insurance card and proof current 2022 monthly premium for supplemental insurance coverage. (Ex. 6).
13. At the appellant's representative's request, and for good cause, the record open was extended several times until May 8, 2023. (Ex. 7).
14. On May 8, 2023, the MassHealth representative emailed the hearing officer and the appellant's representative stating that she did not have certain verifications requested, at which time the record closed. (Ex. 7, pp. 256-258).

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 days¹⁰, MassHealth will determine the coverage

¹⁰ There is an exception for information concerning citizenship, identity, and immigration status. (130

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 MassHealth sent the appellant a request for verifications on June 27, 2022, which the appellant's representative did not dispute. MassHealth did not receive the requested verifications after more than 30 days, another fact the appellant's representative did not dispute. MassHealth then denied the appellant's application on August 3, 2022 because the appellant did not submit the verifications necessary to determine her eligibility for MassHealth LTC benefits. The appellant submitted a timely request for a hearing, and submitted some, but not all of the information MassHealth initially requested. The appeal was withdrawn on condition that the application date be preserved. MassHealth sent a second information request on October 22, 2022. The second information request listed documentation that the appellant needed to submit by November 21, 2022. The appellant did not submit the requested information by November 21, 2022 and for that reason, MassHealth issued the notice under appeal on December 9, 2022. Based on the above, MassHealth's determination was supported by the evidence.

The appellant, however, requested an appeal of the December 9 denial in a timely fashion. Pursuant to this timely appeal, and at the request of the appellant's representative the record was left open after in order to allow further time to submit the requested documents. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)). There were extensions requested and approved during this period.

This, however, did not result in submission of all the requested verifications even after the last submission in early May 2023. As of that date there continued to be key pieces of information that remained missing. There were payments out of the appellant's accounts that were not explained. These included checks [REDACTED] dated April 21, 2022, which was payable to [REDACTED] and [REDACTED] on May 24, 2021 payable to [REDACTED] (both from Account [REDACTED]). The MassHealth representative was right to point out that they both indicate the possible existence of an undisclosed vehicle. There were two deposits to [REDACTED] ending [REDACTED], \$600 on May 4, 2022 and \$2,000 on May 24, 2022, that could indicate possible other assets. The appellant's representative's explanation that they are payments from one of the appellant's other bank accounts is not demonstrated in any of the statements received.

The appellant's representative does rightly point that the rules do allow for exceptions to verifications requirements. (See 130 CMR 516.003(G); 520.006). Indeed, some of the requested documentation may very well be subject to an exception. A preponderance of the evidence, however, does not show that an exception would apply to all of the remaining outstanding verifications.

For the above stated reasons, the appeal is DENIED.

CMR 516.001(C)). None of these categories of information are relevant to this case, however.

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

[REDACTED]