

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300415
Decision Date:	4/3/2023	Hearing Date:	02/17/2023
Hearing Officer:	Paul T. O'Neill	Record Open to:	03/17/2023

Appearance for Appellant:




Appearance for MassHealth:

Jennifer Moreno, Springfield



*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:	LTC eligibility – verifications
Decision Date:	4/3/2023	Hearing Date:	02/17/2023
MassHealth's Rep.:	Jennifer Moreno, Springfield	Appellant's Rep.:	
Hearing Location:	Springfield (remote)	Aid Pending:	No

Authority

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

Jurisdiction

By notice dated January 9, 2023, MassHealth denied Appellant's application for MassHealth long term care benefits because Appellant failed to submit required information. Exhibit 3. Appellant filed this appeal in a timely manner on January 18, 2023. Exhibit 2, 130 CMR 610.015(B). Denial of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through March 17, 2023, at request of Appellant's representative. Exhibits 5-6.

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth benefits because Appellant failed to submit required verifications.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in denying Appellant's application for failure to provide requested verifications.

Summary of Evidence

A MassHealth eligibility representative appeared by telephone and testified as follows. MassHealth received Appellant's application for long term care benefits on October 27, 2022 with a requested start date of May 18, 2022. MassHealth issued an information request on November 9, 2022. Exhibit 3. On January 9, 2023, MassHealth denied Appellant's application for failure to submit all the required information requested. Exhibit 3. MassHealth testified that the following information requested on November 9, 2022, and again on January 9, 2023, remained outstanding:

- 1) [REDACTED] acct xx [REDACTED] - Verify how \$5,000 withdrawal on 10/19/21 and 2/28/22 was spent. Submit proof. Also, submit proof that \$5,000 withdrawal to your son on 11/16/21 was used for your benefit.
- 2) [REDACTED] acct xx [REDACTED] - Verify how \$5,444 withdrawal when account was closed out was spent. Rowboat was only \$300 with the trailer, please verify how the rest of funds were spent.
- 3) PNA Account and Private Pay Statement from Nursing Facility
- 4) [REDACTED]:
 - a. Provide a copy of the schedule of assets held in trust or a signed and dated statement from the trustee listing all assets.
 - b. Provide statements for all trust accounts for the past 60 months.
 - c. Verify all income and principal distributed in the past 60 months.
 - d. If there is real estate held in trust, send a copy of the deed(s) and verify assessed value(s).

Note: The trust copy you sent was not signed and dated, please submit a signed and dated copy.

Appellant's representative testified that the process of providing verifications has been challenging. Appellant's representative testified that she faxed in a letter to MassHealth on January 18, 2023 including various bank statements, quitclaim deeds, and proof that Appellant's son had redeposited \$20,000 in funds that did not have adequate receipt documentation into the Appellant's bank accounts. However, the MassHealth representative testified that she had not received the January 18, 2023 letter or the attached documents. Appellant's representative agreed at hearing that she understood what documents remained outstanding, and that a two week extension of time to resubmit the documents to MassHealth was sufficient because she had previously submitted all the requested documents with the January 18, 2023 letter. Appellant's representative requested that the hearing record be held open through March 17, 2023, with Appellant's deadline to submit the requested documents to MassHealth for its review by March 3, 2023. Exhibit 5.

On February 23, 2023, Appellant's representative emailed the Hearing Officer and the MassHealth Representative indicating that she was "[s]ending requested information via fax ..." for the Appellant. Exhibit 4. After the MassHealth representative received the submitted documents and reviewed them, she communicated to the Appellant's Representative that the following item was still outstanding and

had not been submitted as required:

“4) [REDACTED]: Provide a copy of the schedule of assets held in trust or a signed and dated statement from the trustee listing all assets.”

Appellant’s Representative called the Board on March 17, 2023, and then sent a follow-up email to all parties alleging that the information that was now being requested (#4 above) was newly sought information. Exhibit 6. The record open period ended on March 17, 2023, but the Appellant’s representative did not request any further extension of the record open period to submit additional documents. Exhibit 6. On March 20, 2023, the MassHealth Representative emailed all parties indicating as follows:

Management is aware of what is needed. The request for the schedule of assets is not new. We have been asking for it for a while now. It was part of the items listed on the appeal, so I am not sure why the confusion. Yes, we did receive the signed trust, thank you, however, as stated in the appeal and as requested in our VCI, we need the schedule of assets. Exhibit 6.

Findings of Fact

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

1. On October 27, 2022, MassHealth received Appellant’s application for long term care benefits with a requested start date of May 18, 2022.
2. On November 9, 2022, MassHealth issued a request for information to Appellant. Exhibit 3.
3. On January 9, 2023, MassHealth denied Appellant’s application for failure to submit the following information that had been requested previously on November 9, 2022:
 - 1) [REDACTED] acct xx [REDACTED] - Verify how \$5,000 withdrawal on 10/19/21 and 2/28/22 was spent. Submit proof. Also, submit proof that \$5,000 withdrawal to your son on 11/16/21 was used for your benefit.
 - 2) [REDACTED] acct xx [REDACTED] - Verify how \$5,444 withdrawal when account was closed out was spent. Rowboat was only \$300 with the trailer, please verify how the rest of funds were spent.
 - 3) PNA Account and Private Pay Statement from Nursing Facility.
 - 4) [REDACTED] 2014:
 - a. Provide a copy of the schedule of assets held in trust or a signed and dated statement from the trustee listing all assets.
 - b. Provide statements for all trust accounts for the past 60 months.
 - c. Verify all income and principal distributed in the past 60 months.

- d. If there is real estate held in trust, send a copy of the deed(s) and verify assessed value(s).

Note: The trust copy you sent was not signed and dated, please submit a signed and dated copy.

4. Appellant filed this appeal on January 17, 2023. Exhibit 2.
5. Appellant's representative faxed in a letter with supporting documents to MassHealth in response to the January 9, 2023 denial notice on January 18, 2023. Testimony.
6. The MassHealth Representative did not receive the January 18, 2023 faxed letter or any of the supporting documents sent in the fax. Testimony.
7. On February 17, 2023, this appeal was heard, and at Appellant's request the record was left open until March 17, 2023 with the Appellant to submit all required outstanding information to MassHealth by March 3, 2023 and MassHealth to review by March 17, 2023. Exhibit 5.
8. On February 23, 2023, Appellant's representative faxed a package of information to the MassHealth representative. Exhibit 4, testimony.
9. The MassHealth representative received the submitted documents and reviewed them, and then communicated to the Appellant's Representative that the following item was still outstanding and had not been submitted as required:
 - 4) [REDACTED] 2014: Provide a copy of the schedule of assets held in trust or a signed and dated statement from the trustee listing all assets. Exhibit 6.
10. Appellant's representative called the Board and then emailed all parties on March 17, 2023 alleging that what the MassHealth representative was looking for now (the schedule of assets held in trust or signed statement of assets from the trustee) was newly requested information, but Appellant's representative did not request a further extension of the record open period. Exhibit 6.
11. The record closed on March 17, 2023. Exhibits 5 & 6.
12. As of March 17, 2023, MassHealth had not received a copy of the schedule of assets held in trust or a signed and dated statement from the trustee listing all assets even though this information was listed as required on the prior two verification requests as well as in the Record Open email to the parties. Exhibits 2, 3, 5 & 6.

Analysis and Conclusions of Law

An individual applying for MassHealth long term care benefits (or the individual's authorized

representative) must submit a complete application and all required supplements. 130 CMR 516.001(A)(1). Pursuant to 130 CMR 515.008(A), an “applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility.” After receiving an application for MassHealth benefits, MassHealth proceeds as follows:

The MassHealth agency requests all corroborative information necessary to determine eligibility.

(1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of the receipt of the [application].

(2) The notice advises the applicant that the requested information must be received within 30 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 received [by MassHealth] within 30 days of the date of the request, the [application] is considered complete...If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied” 130 CMR 516.001(C).

MassHealth received Appellant’s application on October 27, 2022, and requested required financial verification information on November 9, 2022. Appellant and Appellant’s representative were still unable to provide all of the information that had been repeatedly requested in November 2022, January 2022, and in February 2022 by the March 17, 2023 record open deadline.

Therefore, Appellant has not met the requirements of 130 CMR 515.008(A) and 130 CMR 516.001(C) by providing the corroborative information necessary for MassHealth to determine eligibility. Accordingly, the appeal is 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 Superior 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 T. O'Neill
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Jennifer Moreno, Springfield MassHealth Enrollment Center, 88
Industry Ave, Ste. D, Springfield, MA 01104

