

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                 |                        |             |
|-------------------------|-----------------|------------------------|-------------|
| <b>Appeal Decision:</b> | Denied          | <b>Appeal Number:</b>  | 2300800     |
| <b>Decision Date:</b>   | 5/8/2023        | <b>Hearing Date:</b>   | 03/02/2023  |
| <b>Hearing Officer:</b> | Paul T. O'Neill | <b>Record Open to:</b> | May 1, 2023 |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Patricia Rogers, Taunton 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

|                           |                              |                          |                                 |
|---------------------------|------------------------------|--------------------------|---------------------------------|
| <b>Appeal Decision:</b>   | Denied                       | <b>Issue:</b>            | LTC eligibility – verifications |
| <b>Decision Date:</b>     | 5/8/2023                     | <b>Hearing Date:</b>     | 03/02/2023                      |
| <b>MassHealth's Rep.:</b> | Patricia Rogers, Taunton MEC | <b>Appellant's Rep.:</b> | [REDACTED]                      |
| <b>Hearing Location:</b>  | Taunton (remote)             | <b>Aid Pending:</b>      | 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 September 6, 2022, MassHealth denied Appellant's application for MassHealth long term care benefits because Appellant failed to submit required information. Exhibits 1 & 3. Appellant filed this appeal in a timely manner on January 1, 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 31, 2023, at request of Appellant's representative, and the record open period was extended a second time for Appellant to submit the required documentation until May 1, 2023. Exhibits 4-10.

## 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 a long-term care benefits conversion on July 14, 2022 with a requested start date of June 1, 2022. MassHealth issued three information requests on July 29, 2022, August 1, 2022, and a final request on September 6, 2022 because the Appellant had still not submitted all required financial information to establish his eligibility for long-term care benefits. Exhibit 11. On September 6, 2022, MassHealth denied Appellant's application for long-term care benefits for failure to submit all the required information requested. Exhibits 3 & 11. MassHealth testified that the following information requested on July 29, 2022, again on August 1, 2022, and again on September 6, 2022, still remained outstanding on the hearing date, March 2, 2023, more than seven months since the Appellant was notified of what he needed to submit:

*Income from Other Unearned NOTES:*

*Please verify whether any private payments have been made to the facility and whether a PNA has been established. If a PNA has been established, please provide statements from opening through current.*

*Income from Unemployment Comp UNEMP from DWD*

*Please verify whether you are still receiving unemployment. Please provide a letter verifying that [REDACTED] is no longer receiving unemployment benefits.*

[REDACTED]  
*- Completion of Disability Form (mailed separately)*

*- [REDACTED] Checking Account XXXXXX [REDACTED]*

*Please provide copies of deposits showing where the deposit money came from for the following transactions:*

*\$11,000 deposited on 11/3/2020*

*\$15103.55 deposited on 03/29/19*

*\$6500.00 deposited on 05/14/20. Exhibit 4.*

Appellant's representative testified that the process of providing verifications has been challenging since Appellant is already in a long-term care facility and unable to assist. Appellant's representative agreed at hearing that she understood what documents remained outstanding, and that a two week extension of time to submit the outstanding verification documents to MassHealth was sufficient. Appellant's representative requested that the hearing record be held open through March 31, 2023, with Appellant's deadline to submit the requested documents to MassHealth for its review by March 17, 2023. Exhibit 4.

On March 20, 2023, the MassHealth representative sent an email to all parties indicating, "I have not

received all requested verifications.” Exhibit 5. On March 28, 2023 in response to a March 28, 2023 email from the Hearing Officer, the MassHealth representative indicated that she had received the necessary Personal Needs Account (PNA) information by fax from the nursing home, but that she had not had any communication from the Appellant’s representative regarding any of the still outstanding documents. Exhibit 6. On April 3, 2023, the MassHealth representative sent an email indicating that she had now also received the required letter “indicating the member is no longer receiving unemployment, however I have not received anything regarding the deposits over \$1500.” Exhibit 6A.

As Appellant’s representative testified credibly at hearing that the following amounts were received as an inheritance and were used by [REDACTED] to fix up his trailer, and only needed to provide copies of the deposit checks from [REDACTED] verifying the source of those funds to complete the application, on April 3, 2023, the Record Open period in this case was further extended for a second time until May 1, 2023 for the Appellant to obtain copies of the following three deposits, including the front and back of the checks deposited, and submit them from [REDACTED] Bank:

“ [REDACTED] Acct ending in [REDACTED] :

1. Deposit of \$11,000.00 on 11/03/20
2. Deposit of \$15103.55 on 03/29/19
3. Deposit of \$6500 on 05/14/20.” Exhibit 6A.

In the April 3, 2023 email granting the second extension of the Record Open period to May 1, 2023, the Appellant’s representative was informed “If you are encountering difficulties with [REDACTED], please contact the Board this week and I can issue a subpoena for these records that you will have to serve on [REDACTED] Bank if needed. In addition, [MassHealth] can also issue an official MassHealth request for these records and the bank will have to provide them without charge.” Exhibit 6A. The Appellant’s representative was also informed that she still needed to submit the Disability Supplement application for the Appellant. Exhibits 6A & 7.

On April 13, 2023, the MassHealth representative sent email to the Hearing Officer indicating as follows:

*Good morning,*

*I spoke to the member’s sister this morning over the phone, she was asking what is still needed to approve [Appellant]. I told her we have not received anything to verify the deposits that were discussed in the hearing. She informed me those deposits came from his money market account, an account that Masshealth was not aware of until that phone call. So now we need statements for that money market account, from 3 months prior to admission to the nursing home through current, or 3 months prior to closure through closure and proof of where closing funds were deposited. In addition, I was not aware that [Appellant’s representative] was the member’s spouse. She informed me they are separated but not legally divorced, so we need a letter either from [Appellant] or [Appellant’s representative] that they share no assets together and [Appellant’s*

*representative] does not wish to seek a spousal maintenance needs allowance. I understand this is new information we are asking for, but I was not aware of it until this morning. Exhibit 7.*

On April 14, 2023, the parties were informed by email as follows:

*Dear Parties:*

*The current appeal is limited to the original documents that were outstanding for the record open:*

- 1. verifications of deposits and*
- 2. disability supplement.*

*If those documents are received by the deadline, there is nothing further for me to adjudicate in this case, and BOH-8 should be filed and MassHealth should proceed to issue an eligibility decision based on whatever it has received by that date.*

*To the extent MassHealth has now identified other documents it needs, the record remains open until May 1, 2023 so it can further consider additional documents that the applicant submits before then in making its eligibility determination at its discretion and/or can issue a new VC-2 in this case so the applicant is clear on what else is specifically needed. Exhibit 8.*

On May 1, 2023, the Hearing Office sent an email to all parties as follows:

*Dear Parties:*

*Please advise as to the status of this case and whether the disability supplement has been filed and the verification of deposits that were outstanding have been received as the Record Open period ends today. Exhibit 9.*

The second record open period ended on May 1, 2023, and the Appellant's representative did not communicate further with the Board, submit any additional documents to the Board, or request any further extension of the record open period to submit additional documents. Exhibits 9 & 10. On May 4, 2023, the MassHealth Representative responded by email indicating that "I did not receive proof of the 3 deposits which were in question ... All I received was a statement showing a completely different large deposit for \$45,000 which was an inheritance." Exhibit 10.

## **Findings of Fact**

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

1. On July 14, 2022, MassHealth received Appellant's application for long term care benefits with a requested start date of June 1, 2022. Exhibit 11.

2. MassHealth issued three information requests on July 29, 2022, August 1, 2022, and a final request on September 6, 2022 because the Appellant had still not submitted all required financial information to establish his eligibility for long-term care benefits. Exhibit 11.
3. On September 6, 2022, MassHealth denied Appellant's application for failure to submit the following information that had been requested previously on July 29, 2022 and August 1 2022:

*Income from Other Unearned NOTES:*

*Please verify whether any private payments have been made to the facility and whether a PNA has been established. If a PNA has been established, please provide statements from opening through current.*

*Income from Unemployment Comp UNEMP from DWD*

*Please verify whether you are still receiving unemployment. Please provide a letter verifying that [REDACTED] is no longer receiving unemployment benefits.*

[REDACTED]

*- Completion of Disability Form (mailed separately)*

*- [REDACTED] Checking Account XXXXXX [REDACTED]*

*Please provide copies of deposits showing where the deposit money came from for the following transactions:*

*\$11,000 deposited on 11/3/2020*

*\$15103.55 deposited on 03/29/19*

*\$6500.00 deposited on 05/14/20. Exhibit 3.*

4. Appellant timely filed this appeal on January 31, 2023. Exhibit 2.
5. On March 2, 2023, this appeal was heard, and at Appellant's representative's request the record was left open until March 31, 2023 with the Appellant to submit all required outstanding information to MassHealth by March 17, 2023 and MassHealth to review by March 31, 2023. Exhibit 4.
6. Appellant's representative was informed what documents remained outstanding and needed to be submitted to establish Appellant's eligibility for long-term care benefits. Testimony; Exhibit 4.
7. On March 20, 2023, the MassHealth representative sent an email to all parties indicating, "I have not received all requested verifications." Exhibit 5.

8. On March 28, 2023 in response to a March 28, 2023 email from the Hearing Officer, the MassHealth representative indicated that she had received the necessary Personal Needs Account (PNA) information by fax from the nursing home, but that she had not had any communication from the Appellant's representative regarding any of the still outstanding documents. Exhibit 6.
9. On April 3, 2023, the MassHealth representative sent an email indicating that she had now also received the required letter "indicating the member is no longer receiving unemployment, however I have not received anything regarding the deposits over \$1500." Exhibit 6A.
10. On April 3, 2023, the Record Open period in this case was further extended for a second time until May 1, 2023 for the Appellant file the required Disability Supplement for the Appellant and to obtain and submit copies of the following three deposits, including the front and back of the checks deposited, and submit them from [REDACTED] Bank:

[REDACTED] Acct ending in [REDACTED]

1. Deposit of \$11,000.00 on 11/03/20
  2. Deposit of \$15103.55 on 03/29/19
  3. Deposit of \$6500 on 05/14/20. Exhibit 6A; Testimony.
11. On April 13, 2023, the MassHealth representative sent email to the Hearing Officer indicating as follows:

*Good morning,*

*I spoke to the member's sister this morning over the phone, she was asking what is still needed to approve [Appellant]. I told her we have not received anything to verify the deposits that were discussed in the hearing. She informed me those deposits came from his money market account, an account that Masshealth was not aware of until that phone call. So now we need statements for that money market account, from 3 months prior to admission to the nursing home through current, or 3 months prior to closure through closure and proof of where closing funds were deposited. In addition, I was not aware that [Appellant's representative] was the member's spouse. She informed me they are separated but not legally divorced, so we need a letter either from [Appellant] or [Appellant's representative] that they share no assets together and [Appellant's representative] does not wish to seek a spousal maintenance needs allowance. I understand this is new information we are asking for, but I was not aware of it until this morning. Exhibit 7.*

12. On April 14, 2023, the parties were informed by email as follows:

*Dear Parties:*

*The current appeal is limited to the original documents that were outstanding for the record open:*

- 1. verifications of deposits and*
- 2. disability supplement.*

*If those documents are received by the deadline, there is nothing further for me to adjudicate in this case, and BOH-8 should be filed and MassHealth should proceed to issue an eligibility decision based on whatever it has received by that date.*

*To the extent MassHealth has now identified other documents it needs, the record remains open until May 1, 2023 so it can further consider additional documents that the applicant submits before then in making its eligibility determination at its discretion and/or can issue a new VC-2 in this case so the applicant is clear on what else is specifically needed. Exhibit 8.*

13. The record closed on May 1, 2023. Exhibit 6A.
14. As of May 1, 2023, MassHealth had still not received copies of the following three deposits, including the front and back of the checks deposited, from the [REDACTED] Acct ending in [REDACTED]:
  1. Deposit of \$11,000.00 on 11/03/20
  2. Deposit of \$15103.55 on 03/29/19
  3. Deposit of \$6500 on 05/14/20. Exhibits 6A & 10.
15. The Appellant's representative did not respond to the Hearing Officer's emailed case status request or request a further extension of the Record Open period on or before May 1, 2023. Exhibit 9.

## **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 July 14, 2022, and requested required financial verification information on July 29, 2022, August 1, 2022, and again for a third time on September 6, 2022. Appellant and Appellant’s representative were still unable to provide all of the information that had been repeatedly requested in July 2022, August 2022, September 2022, and at the hearing on March 2, 2023 by the May 1, 2023 extended 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.



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Paul T. O'Neill  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Patricia Rogers, Taunton MassHealth Enrollment Center, 21 Spring Street, Suite 4, Taunton, MA 02780

[REDACTED]