

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2301071
Decision Date:	3/24/2023	Hearing Date:	03/13/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Carmen Sola



*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:	Dismissed	Issue:	Eligibility
Decision Date:	3/24/2023	Hearing Date:	03/13/2023
MassHealth's Rep.:	Carmen Sola	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone	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

The issue on appeal involved denial of assistance for failure to provide information necessary to complete the application. (Exhibit 1). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

At the hearing, the MassHealth representative agreed to provide the appellant's representative a short period of time to provide additional information. The appellant's representative was able to provide information and MassHealth agreed to approve the application for a period of time. (Exhibit 5; Exhibit 6). This appeal is dismissed as the adjustment made by MassHealth resolves the issue on appeal. (130 CMR 610.035(A)(8)).

Although this appeal is dismissed due to MassHealth making an adjustment, the appellant's representative is being put on notice this appeal would have been dismissed as the request for hearing was not timely. (130 CMR 610.015(B); 130 CMR 610.035(A)(1)). The notice on appeal was dated September 9, 2022 and the request for hearing was not received by the Board of Hearings until February 9, 2023. At the time of the issuance of the notice on appeal, the regulations required that the Board of Hearings receive a request for hearing within 30 days following

the member receiving notice from MassHealth of an agency action.¹ (130 CMR 610.015(B)). Additionally, at the time of this request for hearing, MassHealth implemented new protocols to support public health efforts for both new MassHealth members and existing members that include providing individuals up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns. (130 CMR 610.015; Eligibility Op. Memo 20-09; Exhibit 2). The appeal filed in this case did not meet any of those requirements.

Initially, the appellant's representative did not appear to agree that a determination could be made about the timeliness of the request for hearing as the Board of Hearings sent a notice of a hearing date. However, it is the obligation of the hearing officer to make a determination of the timeliness of an appeal at the time of the hearing and the appellant's representative did not present any testimony or evidence to dispute the date of the notice on appeal or the date of filing an appeal. Therefore, the appellant's representative did not demonstrate that the appeal was timely. (130 CMR 610.035(A)). The decision to schedule a hearing on the merits was made in error. However, as the issue on appeal has been resolved by the parties, there is no longer an appealable action which is also grounds for dismissal.

As noted above, this appeal is dismissed.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

[REDACTED]

¹ The regulations were amended in December 2022 to allow members up to 60 days to file a request for hearing. (130 CMR 610.015). This amendment was not in place at the time of the notice on appeal.