

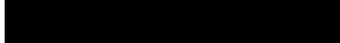
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301909
Decision Date:	10/11/2023	Hearing Date:	06/12/2023
Hearing Officer:	Rebecca Brochstein	Record Open Date:	10/06/2023

Appearance for Appellant:



Appearances for MassHealth:

Jamie Lapa, Springfield MEC



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

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Long-term care eligibility
Decision Date:	10/11/2023	Hearing Date:	06/12/2023
MassHealth's Rep.:	Jamie Lapa	Appellant's Rep.:	
Hearing Location:	Springfield MassHealth Enrollment Center (Telephonic)		

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 February 14, 2023, MassHealth denied the appellant's application for long-term care services for failure to provide requested verifications (Exhibit 1). The appellant filed this appeal in a timely manner on March 10, 2023 (130 CMR 610.015(B); Exhibit 2). On March 10, 2023, the Board of Hearings dismissed the appeal because there was no authorization to file it (Exhibit 3). After the appellant's representatives provided documentation of a conservatorship petition, the Board of Hearings vacated the dismissal put the matter on hold pending the appointment of a conservator (Exhibit 4). After a conservator was appointed, the Board of Hearings scheduled the case for a hearing (Exhibits 5 and 6). The record was held open after hearing for additional information (Exhibit __). Denial of benefits is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's long-term care application for failure to provide requested verifications.

Issue

The appeal issue is whether MassHealth was correct in denying the appellant's MassHealth application.

Summary of Evidence

A caseworker from the Springfield MassHealth Enrollment Center, who appeared telephonically, offered the following background information through testimony and documentary evidence: A MassHealth long-term care application was filed on behalf of the appellant on December 22, 2022. There was no information from the nursing home to indicate when the appellant was admitted or the start date the facility is seeking for MassHealth coverage. On January 3, 2023, MassHealth sent the appellant a request for information, seeking the following:

- Verification of Massachusetts residency
- Signature on the signature page
- Personal needs allowance (PNA) account, including running balances and a private payment statement from the nursing home
- Statements from all bank accounts from 3/1/2022 through the present, with verification of the source of all deposits and disposition of all withdrawals of \$1,000 or more
- Completed Long-Term Care Supplement
- SC-1 form
- Nursing facility screening notification

On February 14, 2023, MassHealth denied the application for failure to submit the requested verifications. The MassHealth representative testified that as of the hearing date most of this information was still outstanding, noting that she had received only the signature page of the long-term care supplement.

The appellant was represented at hearing by her conservator, who appeared telephonically. She stated that the appellant's son has been misappropriating her funds for a long time and has provided her with inaccurate information regarding her finances. For example, she stated that when asked to verify where the appellant's Social Security payments are deposited, he offered the names of three different banks. The conservator stated that the nursing facility has applied to be her representative payee to determine where the Social Security income is deposited. She testified that she believes the son has been using the appellant's Social Security for his own purposes, and that she had the payments stopped temporarily to "stop the bleeding" for now. She requested additional time to secure the missing information that MassHealth has requested.

The record was held open for 30 days for the appellant's conservator to continue efforts to obtain the missing information. On July 11, 2023, an associate of the conservator¹ submitted the SC-1, the nursing facility screening, and a letter from the facility with the PNA and private pay information. He wrote that they were still awaiting bank statements and requested an extension of the record-open period. The hearing officer extended the record-open period to July 26, 2023, as requested.

¹ He is identified in his email signature as "Partner / Chief Financial Officer / Sr. Medicaid Specialist" in the conservator's business office. See Exhibit 9.

On August 3, 2023, the MassHealth caseworker wrote to inquire about the status of the appellant's anticipated submission, stating as follows: "I have one bank statement . . . from 6/17/23 through 7/18/23 (not the full year) and it doesn't show the social security being deposited but it does show an annuity being deposited. An annuity wasn't reported so I will definitely need that contract." See Exhibit 9. Thereafter, the conservator's associate wrote as follows:

[The bank's] Fraud department put a hold on all requests while they follow up on [appellant's boyfriend] taking the withdrawals each month and the [bank's] back office is refusing to acknowledge our Conservatorship documents to forward the necessary statements. Ive [sic] also attached the letter from [the bank] received this week.

I saw the Annuity that is on the attached [bank] statement and have requested that information.

The facility was just appointed rep payee for the Social Security and the deposit will now be in her PNA Account at the facility.

We are hoping that with the updated certified documents that [the bank] releases the statements needed.

The conservator thereafter requested an additional extension to submit the bank statements, which was allowed. On August 29, 2023, after the record-open period had ended, the MassHealth representative reported as follows:

I'm missing [bank] statements from 3/1/22 through 10/18/22.

The statements submitted do not show social security being deposited so I'll still need to see statements that show where that is deposited.

In the prior email I had mentioned that the bank statement submitted show an annuity being deposited. The annuity wasn't previously reported so I'll need that contract.

The conservator's associate responded as follows:

[Appellant] was receiving a paper check that she would cash. Her deposit was not directly deposited. [The bank] at the time of [the conservator's] appointment would only give the following statements.

[The bank] unfortunately does not honor our Conservatorship which is why we have had such a hard time in getting the statements. Documents must be notarized, requested or subpoenaed.

The Annuity was not listed on the Appeal that we filed on and do not have authorization from [the annuity company] to receive any information.

The conservator requested an additional two weeks to obtain the bank statements and the annuity. The hearing officer granted the request. The conservator's associate thereafter submitted the bank statements and a statement from the annuity company that set forth the annuity amount and term. He wrote that the policy "is just like a pension and she will only receive [sic] this policy for her lifetime." After reviewing this information, the MassHealth caseworker responded as follows:

The bank statements still don't show social security being deposited. Social security requires direct deposit for social security payments so we would need some kind of verification from Social Security that she has never had direct deposit and was only receiving paper checks since at least 2022.

I have not received a copy of the annuity contract. I've only received a page showing the monthly amount received. That page doesn't tell me if she purchased the annuity or if it's a group annuity through a former employer so I'm not able to accept that to verify the annuity.

Neither the conservator nor her associate responded to this email from the MassHealth caseworker. They also failed to respond to the hearing officer's inquiries. See Exhibit 9.

Findings of Fact

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

1. On December 22, 2022, a MassHealth long-term care application was submitted on behalf of the appellant, a nursing home resident.
2. On January 3, 2023, MassHealth sent the appellant a request for information, seeking verification of Massachusetts residency; signature on the application; statements on all bank accounts from March 1, 2022, to the present, with verification of the source of all deposits and disposition of all withdrawals of \$1,000 or more; completed long-term care supplement; and certain documents from the nursing facility (PNA statement, private pay letter, SC-1, and screening).
3. On February 14, 2023, MassHealth denied the application for failure to submit the requested verifications.
4. On March 10, 2023, the appellant filed a request for a fair hearing. The Board of Hearings dismissed the appeal for lack of authorization but vacated the dismissal upon verification that a conservatorship petition had been filed with the court. After the conservator was appointed, a hearing was scheduled for June 12, 2023.
5. As of the hearing date, the appellant had not submitted the missing information.

6. The record was held open after the hearing to give the appellant's conservator additional time to obtain the missing information. Thereafter, the record-open period was extended several times at the conservator's request.
7. At the close of the record-open period, the appellant's representatives had submitted some of the missing verifications. They did not submit verification of how her Social Security payments had been disbursed and where the funds were deposited, nor did they submit sufficient information regarding annuity income that is reflected on her bank statements.

Analysis and Conclusions of Law

Under 130 CMR 515.008(A), an applicant or member must cooperate with MassHealth in providing information necessary to establish and maintain eligibility. After receiving an application, MassHealth requests all corroborative information necessary to determine eligibility. 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. If the requested information is received within 30 days of the date of the request, the application is considered complete. If it is not received within that time frame, MassHealth benefits may be denied. 130 CMR 516.001(C).

There is no dispute in this case that the appellant did not provide all of the requested information within the regulatory time frame. Substantial information remained outstanding as of the date of the hearing. Though the appellant's representatives were allowed ample time after the hearing to obtain and submit the missing verifications, their submissions were ultimately incomplete. Specifically, they did not provide verification of how the appellant's Social Security payments had been disbursed and where the funds were deposited, nor did they provide sufficient information concerning the source of her annuity income.² As such, they have not provided all of the information necessary to determine the appellant's eligibility.

This appeal is therefore denied.

Order for MassHealth

None.

² The appellant's representatives argued that the annuity documentation had not been part of MassHealth's original request for information. However, MassHealth's request for "verification of the source of all deposits" is sufficiently broad to cover both the annuity and the Social Security information that the agency is seeking.

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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Springfield MEC

