

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302197
<b>Decision Date:</b>	7/13/2023	<b>Hearing Date:</b>	04/14/2023
<b>Hearing Officer:</b>	Alexis Demirjian	<b>Record Open to:</b>	06/09//2023

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kim McAvinchey, Tewksbury 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>	Outstanding Verifications
<b>Decision Date:</b>	7/13/2023	<b>Hearing Date:</b>	04/14/2023
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	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

Through a notice dated February 2, 2023, MassHealth denied the appellant's application for MassHealth benefits because the appellant did not provide corroborative information. (see 130 CMR 516.001 and Exhibit 3). The appellant filed this appeal in a timely manner on March 16, 2023 (see 130 CMR 610.015(B) and Exhibit 2). <sup>1</sup> Denial of assistance is valid grounds for appeal before the Board of Hearings. (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth notified Appellant that she was not eligible for MassHealth benefits because the appellant did not submit the information it needed to decide eligibility within the required time frame.

## Issue

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<sup>1</sup> The appellant, through her daughter, filed an appeal on March 16, 2023, but failed to include a copy of the Power of Attorney. As such, on March 23, 2023, the Board of Hearings dismissed the appeal for failure to provide a copy of the authority giving the appellant's daughter to file an appeal on her behalf. On March 28, 2023, the appellant's daughter provided a Durable Power of Attorney which showed that she had the authority to file an appeal on behalf of the appellant.

The appeal issue is whether MassHealth was correct in denying the appellant's application for long-term care benefits, pursuant to 130 CMR 516.001, for failure to submit necessary verifications.

## Summary of Evidence

On September 1, 2022, MassHealth received the appellant's application for long-term care benefits. On September 8, 2022, MassHealth sent an information request to the appellant to obtain necessary information to process the appellant's eligibility. MassHealth did not receive all the required information and a denial was issued on October 21, 2022.

On November 11, 2022, MassHealth received additional verifications and re-stamped the application. For purposes of this appeal, this is the date protected by appeal. On December 15, 2023, the application was relogged. On December 23, 2022, MassHealth sent a second information request to the appellant seeking outstanding information to determine the appellant's eligibility. This notice includes the following consequences for failure to provide the information:

You must send us all of the information we need by 01/22/2023.

If you do not send us this information by this date:

- \* your health-care benefits may be denied if you are applying; or
- \* your health-care benefits may change, or end if you are currently getting benefits.

MassHealth did not receive all the requested information from the appellant as required and issued a final denial for lack of verifications on February 2, 2023. *See Exhibit 3.* The notice informed the appellant that they may submit a new application, or if they thought the decision was wrong, they could file a request for fair hearing before the Board of Hearings. *Id.*

Accordingly, the appellant, through their daughter who is also her power of attorney, filed a fair hearing request. At hearing, the appellant was represented by a representative who works at the nursing facility. The appellant's representative asked for a record open period to obtain the missing verifications for MassHealth to determine the appellant's eligibility.

Unfortunately, the appellant's representative sent several emails encrypted that could not be opened by the hearing officer. To cure any issues related to delays in accessing the appellant's information, an extension of the record open period was granted, and the appellant's representative was instructed to submit correspondence through fax to the Board of Hearings. The appellant's representative made two submissions, which were incorporated into the record as Exhibit 6 and Exhibit 7.

MassHealth reviewed the submissions and reported to the hearing officer that despite several

attempts by the appellant's representative to provide the outstanding documentation, the appellant had failed to submit the required information necessary to determine the appellant's eligibility. Specifically, the appellant had failed to provide accurate and complete information in the trustee letter.

MassHealth provided explicit directions for what information to provide in the trustee letter. Specifically, MassHealth was seeking the following:

A signed and dated letter detailing the following:

1. A signed and dated letter that contains the following:
  - a. All assets in trust and value on 09/01/17.
  - b. All assets transferred in/out of trust on/after 09/01/17 and dates of transfers.
  - c. All assets currently in trust and current value
  - d. Send proof of value on 09/01/17 AND proof current value.

MassHealth requested an accurate and complete Letter from the Trustee for the [REDACTED], hereinafter referred to as "[REDACTED]." The appellant's representative supplied multiple letters indicating that the trust had no assets. However, elsewhere in the submissions, a HUD statement indicated that the [REDACTED] held the [REDACTED] property which was later sold.

The letters submitted during the record open period are deficient as they fail to properly account for trust assets, transfer of assets, and distribution of trust funds. The letters submitted during the record open period are also inaccurate because they fail to even acknowledge that the [REDACTED] property was an asset of the trust, despite the HUD statement indicating that it was an asset. Additionally, during the record open period, MassHealth discovered the existence of another trust that had not been previously disclosed by the appellant or her representatives.

As such, MassHealth reported that they remain unable to determine the appellant's eligibility based on the inaccurate and incomplete information provided by the appellant.

## Findings of Fact

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

1. On September 1, 2022, MassHealth received the appellant's application for long-term care benefits. *See Testimony and Exhibit 4.*
2. On September 8, 2022, MassHealth sent an information request to the appellant to obtain

necessary information to process the appellant's eligibility. MassHealth did not receive all the required information and a denial was issued on October 21, 2022. *See Testimony and Exhibit 4.*

3. On November 11, 2022, MassHealth received additional verifications and re-stamped the application. *See Testimony and Exhibit 4.*

4. On December 23, 2022, MassHealth sent a second information request to the appellant seeking outstanding information to determine the appellant's eligibility. This notice includes a warning that failure to provide documentation may result in the appellant being denied eligibility. *See Exhibit 4.*

5. MassHealth provided explicit directions for what information to include in the trust letter. *See Exhibit 4.*

6. On February 2, 2023, issued a final denial for lack of verifications. *See Exhibit 3*

7. The appellant's representative submitted letters that did not address the questions raised by MassHealth. *See Exhibit 6 and 7.*

8. The appellant's representative submitted letters that were inaccurate. *See Exhibit 6 and 7.*

## **Analysis and Conclusions of Law**

Once an application for MassHealth long-term-care benefits has been submitted, the MassHealth agency requests all corroborative information necessary to determine eligibility. See 130 CMR 516.001. 130 CMR 516.001(B) provides the following with respect to corroborative information:

- (1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of 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(C) sets forth the process regarding the receipt of corroborative information, and provides as follows:

If the requested information, with the exception of verification of citizenship, identity, and immigration status, is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.

130 CMR 520.025 (F) provides that an individual must provide MassHealth agency with a copy of the trust or similar legal device, or when appropriate a will and **any information detailing investments, holdings, and distributions, as determined by MassHealth agency.**

(Bolded emphasis added)

In the present case, MassHealth repeatedly explained the information it required with respect to the [REDACTED]. The appellant and her representatives were given several opportunities to provide that information to MassHealth, including during an extended record open period. Despite the additional time, the appellant did not submit the required documentation related to the [REDACTED] and it was further revealed that they failed to disclose an additional trust. Therefore, the action taken by MassHealth was within the regulations. See 130 CMR 516.001.

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 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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Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

[REDACTED]

[REDACTED]