

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2302628

Decision Date: 5/5/2023

Hearing Date: 05/03/2023

Hearing Officer: Patricia Mullen

Appearance for Appellant:



Appearance for MassHealth:

Kathy Boileau, 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

Appeal Decision:	Denied	Issue:	Verifications
Decision Date:	5/5/2023	Hearing Date:	05/03/2023
MassHealth's Rep.:	Kathy Boileau, Taunton MEC	Appellant's Rep.:	Authorized rep
Hearing Location:	Taunton MassHealth Enrollment Center		

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 December 19, 2022, MassHealth denied the appellant's application for MassHealth Standard benefits for long term care residents because MassHealth determined that the appellant failed to submit requested verifications within the required time frame. (see 130 CMR 516.001 and Exhibit 1). The appellant filed this appeal in a timely manner on March 31, 2023¹. (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard for long term care residents.

Issue

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.001, in determining that the appellant failed to submit requested verifications within the required time frame.

Summary of Evidence

The appellant was represented telephonically at the hearing by her authorized representative, the business office representative from the nursing facility. (Exhibit 2). MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The MassHealth representative testified that the appellant is a single individual, over age 65, who was admitted to the nursing facility on [REDACTED] (Exhibit 5, p. 3). The MassHealth representative noted that a SC-1 was received at MassHealth on February 17, 2022 and the appellant was coded short term care through April 30, 2022. The MassHealth representative stated that MassHealth sent the appellant a long term care conversion application on April 22, 2022 and it was received back at MassHealth on October 31, 2022. The MassHealth representative noted that the nursing facility is requesting a MassHealth start date of May 1, 2022, but the earliest start date on an October 31, 2022 application is July 1, 2022. MassHealth sent the appellant an Information Request dated November 10, 2022, requesting verification of pension, statements from three bank accounts from July 1, 2021 to present, and personal needs account (PNA) statement and private pay statement from the nursing facility. (Testimony, exhibit 5, p. 6). The appellant did not submit any of the requested verifications and MassHealth denied the application by notice dated December 19, 2022. (Exhibit 1).

The MassHealth representative stated that the appellant's representative submitted the appellant's pension, PNA and private pay information, and statements for one bank account on the morning of the hearing. The MassHealth representative stated that the requested bank statements for the two other bank accounts are still outstanding.

The appellant's representative stated that she keeps asking the appellant's daughter for the bank statements, but she only sends statements for the one bank account that was submitted. The appellant's representative noted that the appellant's daughter is her Power of Attorney (POA) and Health Care Proxy and the MassHealth representative confirmed that the appellant's daughter receives the MassHealth requests and notices. The appellant's representative noted that the appellant's son's name is on one of the outstanding bank accounts, along with the appellant's name. The appellant's representative stated that she does not know why the appellant's daughter is not submitting the requested bank statements.

Findings of Fact

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

1. The appellant is a single individual, over age 65, who was admitted to the nursing facility on [REDACTED]

2. The nursing facility submitted an SC-1 to MassHealth on February 17, 2022 and the appellant was coded short term care through April 30, 2022.
3. MassHealth sent the appellant a long term care conversion application on April 22, 2022 and it was received back at MassHealth on October 31, 2022.
4. MassHealth sent the appellant an Information Request dated November 10, 2022, requesting verification of pension, statements from three bank accounts from July 1, 2021 to present, and personal needs account (PNA) statement and private pay statement from the nursing facility.
5. The appellant did not submit any of the requested verifications and MassHealth denied the application by notice dated December 19, 2022.
6. On the morning of the hearing, the appellant's representative submitted the appellant's pension, PNA and private pay information, and statements for one bank account.
7. The appellant's daughter is her Power of Attorney and Health Care Proxy and receives the MassHealth requests and notices.
8. The appellant's son's name is on one of the outstanding bank accounts, along with the appellant's name.

Analysis and Conclusions of Law

Application for Benefits

(A) Filing an Application.

(1) Application. To apply for MassHealth

- (a) for an individual living in the community, an individual or his or her authorized representative must file a complete paper Senior Application and all required Supplements or apply in person at a MassHealth Enrollment Center (MEC); or
- (b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

(2) Date of Application.

- (a) The date of application is the date the application is received by the MassHealth agency.
- (b) An application is considered complete as provided in 130 CMR 516.001(C).
- (c) If an applicant described in 130 CMR 519.002(A)(1) has been denied SSI in the 30-day period before the date of application for MassHealth, the date of application for MassHealth is the date the person applied for SSI.

(3) Paper Applications or In-person Applications at the MassHealth Enrollment Center (MEC) — Missing or Inconsistent Information.

- (a) If an application is received at a MassHealth Enrollment Center or MassHealth

outreach site and the applicant did not answer all required questions on the Senior Application or if the Senior Application is unsigned, the MassHealth agency is unable to determine the applicant's eligibility for MassHealth.

(b) The MassHealth agency requests responses to all of the unanswered questions necessary to determine eligibility. The MassHealth agency must receive such information within 15 days of the date of the request for the information.

(c) If responses to all unanswered questions necessary to determine eligibility are received within 15 days of the date of the notice, referenced in 130 CMR 516.001(A)(3)(b), the MassHealth agency will request any corroborative information necessary to determine eligibility, as provided in 130 CMR 516.001(B) and (C).

(d) If responses to all unanswered questions necessary for determining eligibility are not received within the 15-day period referenced in 130 CMR 516.001(A)(4)(b), the MassHealth agency notifies the applicant that it is unable to determine eligibility. The date that the incomplete application was received will not be used in any subsequent eligibility determinations. If the required response is received after the 15-day period, the eligibility process commences and the application is considered submitted on the date the response is received, provided that if the required response is submitted more than one year after the initial incomplete application, a new application must be completed.

(e) Inconsistent answers are treated as unanswered.

(B) Corroborative Information. 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 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.

(C) Receipt of Corroborative Information. 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 516.001).

The hearing officer may not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted. (130 CMR 610.071(A)(2)).

As of the date of hearing, the appellant still had not submitted bank statements MassHealth requested in November, 2022. The appellant has been in the nursing facility for over a year and

a half and, as early as February, 2022, she knew she'd need MassHealth coverage as of May 1, 2022. The appellant delayed in returning the long term care conversion application sent to her by MassHealth, missing out on 2 months of coverage as a result of such delay. As a result of the Covid emergency, the appellant was allowed extra time to file an appeal of MassHealth's December 19, 2022 and took over 3 months to file such appeal, thereby giving her even more time to obtain the requested verifications. At the very least the PNA and private pay statement from the nursing facility were easily obtainable and should've been submitted within the time frame set forth in the November 10, 2022 Information Request, but were not submitted until almost 6 months later on the morning of the hearing. The appellant's son's name is on one of the outstanding bank accounts and thus those statements are easily obtainable. The appellant's daughter is the appellant's POA and Health Care Proxy and has provided no reason why the requested bank statements have not been submitted. The appellant has had almost 6 months to submit the requested verification of bank statements and has provided no evidence to support the failure to do so.

MassHealth's action in denying the appellant's application for failure to submit requested verifications in a timely manner is upheld and 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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center
[REDACTED]