

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302869
<b>Decision Date:</b>	7/12/2023	<b>Hearing Date:</b>	5/24/2023
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	6/30/23

**Appearance for Appellant:**



**Appearance for MassHealth:**

Alfred Peach

**Interpreter:**

N/A



*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>	Eligibility, LTC
<b>Decision Date:</b>	7/12/2023	<b>Hearing Date:</b>	5/24/2023
<b>MassHealth's Rep.:</b>	Alfred Peach	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote (Tel)	<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 March 24, 2023, MassHealth denied the Appellant's application for MassHealth benefits (Long-Term-Care Services in a Nursing Facility) because MassHealth determined that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1). The Appellant filed this appeal in a timely manner on April 10, 2023 (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 benefits (Long-Term-Care Services in a Nursing Facility) because MassHealth determined that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1).

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit

1).

## Summary of Evidence

The Appellant, an individual over the age of 65, filed an application for MassHealth benefits for Long-Term-Care Services in a Nursing Facility in [REDACTED] of 2023. (Exhibit 1, Testimony) The Appellant filed an appeal, and a hearing was held on May 24, 2023. (Exhibit 4, Testimony) At the Hearing, MassHealth listed multiple items outstanding for MassHealth to make a determination regarding eligibility. (Exhibit 6, Testimony). Specifically, MassHealth required submission of 1) a completed application, 2) documentation from a nursing facility (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) 3) [REDACTED] Bank Statements 4) Information related to real property at [REDACTED] in [REDACTED] 5) United Health Care Insurance information. (Exhibit 6, Testimony). The Record was left open until June 23, 2023 for the Appellant to provide the required information and until June 30, 2023 for MassHealth to review. (Exhibit 7). On June 14, 2023, MassHealth responded that most information had been received, however, the nursing home information (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) remained outstanding. (Exhibit 8). Further communication occurred between the parties. (Exhibit 9). On June 28, 2023, after the Record closed for the Appellant, an inquiry regarding the status of the outstanding documents was sent. (Exhibit 10). MassHealth responded that the nursing home information (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) remained outstanding. No response to the inquiry sent June 28, 2023 has been received on behalf of the Appellant through July 10, 2023.

## Findings of Fact

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

1. The Appellant, an individual over the age of 65, filed an application for MassHealth benefits for Long-Term-Care Services in a Nursing Facility in [REDACTED] of 2023. (Exhibit 1, Testimony)
2. The Appellant filed an appeal, and a hearing was held on May 24, 2023. (Exhibit 4, Testimony)
3. MassHealth required submission of multiple documents to determine the Appellant's eligibility: 1) a completed application, 2) documentation from a nursing facility (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) 3) [REDACTED] Bank Statements 4) Information related to real property at [REDACTED] in [REDACTED] and 5) United Health Care Insurance information. (Exhibit 6, Testimony).
4. On June 14, 2023, MassHealth responded that most information had been received,

however, the nursing home information (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) remained outstanding. (Exhibit 8).

5. The Record was left open until June 23, 2023 for the Appellant to provide the required information and until June 30, 2023 for MassHealth to review. (Exhibit 7).

6. On June 14, 2023, MassHealth responded that most information had been received, however, the nursing home information (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) remained outstanding. (Exhibit 8).

7. On June 28, 2023, after the Record closed for the Appellant, an inquiry regarding the status of the outstanding documents was sent to the parties, and MassHealth responded that the nursing home information (SC-1 Admission Form and Level of Care Nursing Facility Screening, Personal Needs Account statements and Private Pay statements) remained outstanding. (Exhibit 10)

8. No response to the inquiry sent June 28, 2023 has been received on behalf of the Appellant through July 1, 2023.

## **Analysis and Conclusions of Law**

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The Appellant in this case is a noninstitutionalized person over the age of 65. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

MassHealth may provide coverage for low- and moderate-income individuals and couples:

### 515.002: Introduction to MassHealth

(A) The MassHealth agency is responsible for the administration and delivery of health-care services to low- and moderate-income individuals and couples.

(B) 130 CMR 515.000 through 522.000: Other Division Programs provide the MassHealth requirements for persons who are institutionalized, 65 years of age or older, or who would be institutionalized without community-based services in accordance with all applicable laws, including Title XIX of the Social Security Act.

As a threshold to coverage, MassHealth must determine eligibility of an Appellant. In order to determine an Appellant's eligibility, it is incumbent upon an applicant to cooperate with MassHealth and provide necessary information for a determination:

515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

Here, MassHealth required additional information to determine eligibility, and despite requests for additional information, ultimately did not receive the information required for the determination. (Exhibit 6, Testimony, 130 CMR 516.001(B)) A Notice of denial was sent to the Appellant in accordance with the Regulations. (Exhibit 1, 130 CMR 516.001 (C)).

516.001: Application for Benefits

(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.

The Appellant chose to appeal, and at the May 24, 2023 Hearing, additional time was granted to provide MassHealth the information necessary to determine the Appellant's eligibility. (Exhibit 7) Although some information had been received, upon expiration of the Record Open period, nursing home information (SC-1 Admission Form and Level of Care Nursing Facility Screening,

Personal Needs Account statements and Private Pay statements) remained outstanding. MassHealth is unable to review the Appellant's application for MassHealth benefits (Long-Term-Care Services in a Nursing Facility) to determine the Appellant's eligibility without the information from a nursing facility. An Appellant has a duty to cooperate with MassHealth and provide necessary information. (130 CMR 515.008) An Appellant must provide corroborative information for MassHealth to determine eligibility. (130 CMR 516.001). Here, the Appellant has not cooperated with MassHealth to provide the necessary initial information and corroborative information for MassHealth to make a determination regarding eligibility for MassHealth benefits (Long-Term-Care Services in a Nursing Facility). Additionally, the Appellant has not met her burden to show that MassHealth's denial due to its inability to determine eligibility is invalid. Therefore, this 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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Patrick Grogan  
Hearing Officer  
Board of Hearings

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