

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2303416
<b>Decision Date:</b>	5/26/2023	<b>Hearing Date:</b>	05/23/2023
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Jevon Shular, Quincy 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>	Dismissed	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	5/26/2023	<b>Hearing Date:</b>	05/23/2023
<b>MassHealth's Rep.:</b>	Jevon Shular, Quincy MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	Yes

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction<sup>1</sup>

The appellant received a notice dated 04/13/2023 stating MassHealth has reviewed your application for long term care services and you are not eligible because you are 65 years of age or older and you did not submit the application for people 65 and older (130 CMR 501.002(B); Exhibit 1). A timely appeal was filed by the appellant on 04/21/2023 (130 CMR 610.015(B); Exhibit 2). Denial of MassHealth benefits is valid grounds for appeal (130 CMR 610.032).

A fair hearing took place on 05/23/2023<sup>2</sup>, at which time the MassHealth representative testified that prior to the instant action, the appellant was receiving MassHealth benefits as a person living in the community who was under [REDACTED]. The appellant turned [REDACTED] on 12/27/2022. MassHealth requires a different application to be filed for those who are 65 or older. MassHealth planned to terminate the appellant's benefits because it had not received the appellant's application prior to her [REDACTED] birthday. The appellant appealed MassHealth's denial

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<sup>1</sup> 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.

<sup>2</sup> See Exhibit 3.



notice and her benefits were protected pending the appeal.

According to MassHealth, prior to the date of the fair hearing, MassHealth received the appropriate applications. The application for benefits and the second application for Buy-In benefits were processed and the appellant was determined to be eligible for both programs. MassHealth made the Buy-In benefits retroactive to 11/01/2022, the first month after the application was received. The appellant was also determined to be eligible for MassHealth Standard benefits, effective on 01/01/2023. She has had no lapse of coverage due to the protection on her case pending this appeal.

The Fair Hearing regulation concerning Adjustment Procedures and Mediation is set forth at 130 CMR 610.051. Regulations at 130 CMR 610.051(B) states, in relevant part, as follows:

The Division may make an adjustment in the matters at issue before or during a hearing. If the parties agree that the adjustment resolves one or more of the issues in dispute, the hearing officer, by written order, will dismiss the appeal as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement.

MassHealth has reversed its initial denial based on a failure to submit the appropriate application. The application was submitted in a timely manner and was processed prior to the date of the fair hearing. As the MassHealth adjustment resolves the disputed issues concerning eligibility in the instant case, MassHealth may release aid pending and this appeal is dismissed.

## **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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171