

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address



Appeal Decision:	Denied	Appeal Number:	2304149
Decision Date:	7/10/2023	Hearing Date:	06/22/2023
Hearing Officer:	Paul C. Moore	Record Closed:	07/07/2023

Appellant Representative:



MassHealth Representative:

Jessica Barney, Taunton MEC (by telephone)



*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:	Verifications
Decision Date:	7/10/2023	Hearing Date:	06/22/2023
MassHealth Rep.:	Jessica Barney	Appellant Rep.:	Guardian/Sister
Hearing Location:	Board of Hearings (remote)		

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 28, 2023, MassHealth notified the appellant that his MassHealth application had been denied because he failed to give MassHealth the information needed to decide his eligibility (Exhibit 1). On May 17, 2023, the appellant timely filed an appeal and requested a fair hearing with the Board of Hearings (BOH) (Exhibit 2).¹ Denial of assistance is a valid ground for appeal to the BOH (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care coverage due to missing verifications.

¹ MassHealth Eligibility Operations Memo 20-09, "MassHealth Response to Coronavirus Disease 2019 (COVID-19)," issued April 7, 2020, states in relevant part: "In response to the current Coronavirus Disease 2019 (COVID-19) national emergency, MassHealth is implementing the following protocols to support the public health efforts to expedite medical care and maintain care for both new MassHealth applicants and existing members. Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of the 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**" (emphasis added).

Issue

Was MassHealth was correct in denying the appellant's MassHealth application?

Summary of Evidence

A MassHealth representative from the Taunton MassHealth Enrollment Center (MEC) testified by telephone that appellant, who is over age 65, filed a MassHealth application seeking long-term care coverage on January 31, 2023. The appellant entered a nursing facility in [REDACTED] 2022. The appellant is seeking coverage for his nursing-facility stay on [REDACTED] 2022 (Exh. 5).

The MassHealth representative testified that she sent a request for corroborative information (VC-1 Form) about his income and assets to the appellant on February 21, 2023 (Testimony). Not all requested verifications were timely received, so the MassHealth representative sent a written denial notice to the appellant on March 28, 2023 (Exh. 1). The MassHealth representative testified that the appellant transferred ownership of a life insurance policy he had purchased with [REDACTED] to his guardian (who is also his sister) in [REDACTED] 2022. The MassHealth representative explained that this would likely be considered a disqualifying transfer. The MassHealth representative added that MassHealth needs documentation from the insurance company of the face value and cash surrender value of the life insurance policy at the time the appellant transferred the policy to his sister, as a life insurance policy is a countable asset in the appellant's eligibility determination (Testimony).

The appellant's guardian (and appeal representative) testified by telephone that she recently learned that the appellant's life insurance policy is a countable asset. On April 6, 2023, she surrendered the life insurance policy to a funeral home to purchase a pre-paid plan for the appellant. She added that she requested that both the owner and beneficiary of the policy be changed to the funeral home. She noted that the contract she signed with the funeral home is irrevocable. She stated she is waiting for a copy of the irrevocable funeral home contract, with a list of goods and services, but her contact at the funeral home is currently on vacation (Testimony).

The MassHealth representative noted that if the requested funeral home documentation is received, the life insurance policy would no longer be considered countable to the appellant (Testimony).

The hearing officer agreed to keep the record of this appeal open until June 30, 2023 for the appeal representative to produce to the hearing officer and to MassHealth a copy of the irrevocable funeral home contract with a list of goods and services (Exh. 6). The hearing officer also agreed to keep the appeal record open until July 7, 2023 for the MassHealth representative to report back to the hearing officer and the appeal representative whether all requested verifications were received (*Id.*).

The hearing officer received no documentation from the appeal representative by June 30, 2023, nor did the hearing officer receive a request for an extension of time to produce the requested documentation.

Findings of Fact

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

1. The appellant, who is over age 65, filed an application for MassHealth long-term care benefits in January, 2023 (Testimony).
2. The appellant was admitted to a nursing facility in [REDACTED] 2022 and is seeking coverage for his stay effective [REDACTED] 2022 (Testimony, Exh. 5).
3. MassHealth sent a Request for Information (VC-1) to the appellant in February, 2023 seeking corroboration of his income and assets (Testimony)
4. Not all corroborative information was timely received, so MassHealth denied the appellant's application by notice dated March 28, 2023 (Testimony, Exh. 1).
5. The appellant filed a timely appeal of this denial with the BOH on May 17, 2023 (Exh. 2).
6. The appellant has a legal guardian (Exh. 3).
7. As of the hearing date, the appellant had not verified the cash surrender and face values of a life insurance policy he had purchased and transferred to his guardian (Testimony, Exh. 5).
8. The appellant's guardian asserted that she had transferred ownership of the life insurance policy to a funeral home to purchase a pre-paid burial plan on the appellant's behalf (Testimony).
9. The hearing record was held open for the appellant to produce a copy of an irrevocable, pre-paid burial contract with a funeral home, with a list of goods and services (Exh. 6).
10. Nothing was received from the appellant.

Analysis and Conclusions of Law

A MassHealth applicant or member must cooperate with MassHealth in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of the MassHealth program including recovery (130 CMR 515.008(A)). Once an application for benefits is received, MassHealth requests all corroborative information necessary to determine

eligibility, 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(B)). If the requested information is not received, MassHealth benefits may be denied (130 CMR 516.001(C)).

In particular, MassHealth regulation 130 CMR 516.001(A), "Filing an Application," states:

(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 Senior Application online at www.MAHealthConnector.org, complete a paper application, complete a telephone application, or apply in person at a MassHealth Enrollment Center (MEC).

(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).

(Emphasis added)

Further, an applicant over age 65 who is institutionalized must verify the value of all countable assets pursuant to 130 CMR 520.007.

Pursuant to 130 CMR 520.007(E), "Countable Assets:"

Cash-surrender Value of Life-insurance Policies.

(1) The cash-surrender value of a life-insurance policy is the amount of money, if any, that the issuing company has agreed to pay the owner of the policy upon its cancellation. An individual may adjust the cash-surrender value of life insurance to meet the asset limit. The MassHealth agency will consider the cash-surrender-value amount an inaccessible asset during the adjustment period.

(2) If the total face value of all countable life-insurance policies owned by the applicant, member, or spouse exceeds \$1,500, the total cash-surrender value of all policies held by that individual is countable. The MassHealth agency does not count the face value of burial insurance and the face value of life-insurance policies not having cash-surrender value (for instance, term insurance) in determining the total face value of life-insurance policies. Burial insurance is insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses, funeral expenses, or both of the insured.

Here, the appellant failed to verify the cash surrender value of a life insurance policy he owned. The appeal representative indicated that she transferred ownership of the policy to a funeral home to purchase a burial contract for the appellant, but she did not timely submit documentation to this effect, despite a record-open period being granted.

The appellant has not verified the value of all of his assets.

MassHealth's decision to deny the appellant's application was correct.

Accordingly, 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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Justine Ferreira, Appeals Coordinator, Taunton MEC