

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2305524
Decision Date:	10/16/2023	Hearing Date:	8/7/2023
Hearing Officer:	Cynthia Kopka	Record Open to:	10/19/2023

Appearance for Appellant:



Appearance for MassHealth:

Stephanie DeSousa, for Gloria Medeiros,
Taunton



*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:	Dismissed	Issue:	Long term care eligibility - verifications
Decision Date:	10/16/2023	Hearing Date:	8/7/2023
MassHealth's Rep.:	Stephanie Desousa, for Gloria Medeiros	Appellant's Rep.:	
Hearing Location:	Taunton (remote)	Aid Pending:	No

Authority

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

Jurisdiction

By notice dated March 9, 2023, MassHealth denied Appellant's application for long term care benefits because Appellant failed to submit required information. Exhibit 1. Appellant filed this appeal on July 7, 2023¹ and named a representative from the long term care facility as appeal representative ("the former representative"). Exhibit 2. Denial of assistance is a valid basis for appeal. 130 CMR 610.032.

Appellant's former representative also submitted an Authorized Representative Designation (ARD) form signed by Appellant on October 17, 2022 and naming the former representative as authorized representative. *Id.* at 2.

On the date of hearing, August 7, 2023, the former representative did not appear, as she had left employment at the facility. Her replacement ("the new representative") appeared on Appellant's behalf.² The hearing record was held open and extended at Appellant's request through October 19, 2023. Exhibit 5. As part of the record open, the new representative was told that Appellant

¹ The appeal was filed within 120 days pursuant to Eligibility Operations Memo (EOM) 20-09.

² The new representative was able to verify Appellant's identity via social security number and date of birth at hearing.

would have to sign a new ARD form or otherwise name the new representative as appeal representative. *Id.*

On October 9, 2023, the new representative reported that she would not be able to provide MassHealth with the verifications needed for Appellant's application because family members were being uncooperative. Exhibit 6.

Upon reminder that a new ARD form was required, the new representative sent an updated form. Exhibit 7. The form submitted was the same form signed by Appellant on October 17, 2022, but with the new representative's name electronically edited over the former representative's name. *Id.*

The MassHealth regulations define an appeal representative as follows:

Appeal Representative –

- (1) a person or an organization who agrees to comply with applicable rules regarding confidentiality and conflicts of interest in the course of representing an applicant or member, provided such person or organization
 - (a) has provided the BOH with written authorization from the applicant or member to act responsibly on his or her behalf during the appeal process; or
 - (b) has, under applicable law, authority to act on behalf of an applicant or member at an appeal or otherwise in making decisions related to health care or payment for health care including, but not limited to, a guardian, conservator, personal representative of the estate of an applicant or member, holder of power of attorney, or an invoked health care proxy; or
- (2) a person or organization who has been designated an authorized representative, as defined in 130 CMR 610.004: Authorized Representative, pursuant to a valid Authorized Representative Designation Form.

130 CMR 610.004. All documentation required in 130 CMR 610.004 must be submitted at or before hearing. 130 CMR 610.016(A).

Pursuant to 130 CMR 610.035(A)(11), the Board of Hearings will dismiss a request for a hearing if the appellant fails to appear at a scheduled hearing. Notice of the hearing was sent to both Appellant at his home address and to the former representative at the facility's address. On the date of hearing, neither Appellant nor his authorized representative appeared at the hearing. The person who appeared at hearing on Appellant's behalf never provided a valid authorization to represent Appellant at hearing, as the ARD form was edited after the fact and the change was not initialed by Appellant. Effectively, Appellant did not appear at hearing.

Accordingly, this appeal is dismissed pursuant to 130 CMR 610.035(A)(11) and 610.048. This

dismissal constitutes written notice of the dismissal as required by 130 CMR 610.048. Pursuant to 130 CMR 610.048(C)(2).

A request to vacate a dismissal must be in writing and must be signed by the appellant. Such request must be received by BOH within ten days of the date of the dismissal notice. If the dismissal is for failure to appear at a hearing, such a dismissal will be vacated by the BOH Director or his or her designee upon a finding that the appellant has shown good cause for

(a) failure to appear at a scheduled hearing; and

(b) failure to inform BOH before the date of a scheduled hearing of his or her inability to appear at that hearing.

Appellant or an authorized appeal representative may request to vacate this dismissal by providing good cause in writing within ten days of the date of this decision pursuant to 130 CMR 610.048(C)(2).

Order for MassHealth

None.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

[REDACTED]