

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2308240
<b>Decision Date:</b>	10/19/2023	<b>Hearing Date:</b>	10/18/2023
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Scott Michael, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Verifications
<b>Decision Date:</b>	10/19/2023	<b>Hearing Date:</b>	10/18/2023
<b>MassHealth's Rep.:</b>	Scott Michael	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote	<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 July 17, 2023, MassHealth denied Appellant's application for MassHealth long-term care benefits for failure to verify eligibility (130 CMR 516.001 and Exhibit 1). Appellant filed this appeal in a timely manner on September 13, 2023 (130 CMR 610.015(B) and Exhibit 2). On September 13, 2023, the Board of Hearings dismissed the appeal request based on timeliness; the dismissal was vacated at Appellant's request (Exhibit 4, pp. 27-28). Denial of assistance is a valid ground for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied Appellant's application for long-term care benefits for failure to verify eligibility.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.001, in denying Appellant's application for long-term care benefits for failing to verify eligibility.

## Summary of Evidence

The MassHealth representative testified that an application for long-term care benefits was submitted to MassHealth on February 27, 2023. On March 8, 2023, MassHealth issued a request for verification of all assets and income and other eligibility factors (Exhibit 5, pp. 1-5). On April 1, 2023, MassHealth sent a second request for verification of all assets and income and other eligibility factors (Id., pp. 6-10). On July 17, 2023, MassHealth issued a denial for failure to verify eligibility identifying outstanding documentation necessary to process the application (Id., pp 11-14). The MassHealth representative testified that the following items remain outstanding: statements for 3 bank accounts; documentation of Florida real estate or mobile home; real estate sold in 2019 with a tax assessed value of \$335,000 and the disposition of funds received; and nursing facility screening and SC-1 form from the nursing facility.

Appellant was represented by the CEO of the nursing facility who testified that Appellant was admitted to the facility in [REDACTED] 2022, and Medicare paid for part of his stay. The nursing facility is seeking coverage from November 13, 2022 through [REDACTED] 2023 when Appellant left the facility, and now resides in another state with his son. Appellant's son was working with the facility to verify assets but is no longer cooperating with the facility. Appellant's representative testified that he was advised that a conservator could not be appointed because Appellant now lives in another state. Appellant's representative conceded that Appellant has not provided all requested verifications to MassHealth, and asserted that the situation creates an exceptional circumstance that should allow approval.

## Findings of Fact

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

1. An application for long-term care benefits was submitted to MassHealth on February 27, 2023.
2. On March 8, 2023, MassHealth issued a request for verification of all assets and income and other eligibility factors.
3. On April 1, 2023, MassHealth sent a second request for verification of all assets and income and other eligibility factors.
4. On July 17, 2023, MassHealth issued a denial for failure to verify eligibility identifying outstanding documentation of assets and income and other factors necessary to process the application.
5. The following documentation remains outstanding: statements for 3 bank accounts;

documentation of Florida real estate or mobile home; real estate sold in 2019 with a tax assessed value of \$335,000 and the disposition of funds received; and nursing facility screening and SC-1 form from the nursing facility.

6. Appellant was admitted to the nursing facility in [REDACTED] 2022, and left the facility on [REDACTED] 2023.
7. The nursing facility is seeking coverage from [REDACTED], 2022 through [REDACTED] 2023.
8. Appellant has not provided all required verifications to MassHealth.

## Analysis and Conclusions of Law

The MassHealth agency requires verification of eligibility factors including income, assets, residency, citizenship, immigration status, and identity as described in 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, 130 CMR 518.000: *MassHealth: Citizenship and Immigration*, and 130 CMR 520.000: *MassHealth: Financial Eligibility* (130 CMR 516.003). Regulation 130 CMR 516.001(B) provides that MassHealth may request additional information or documentation, if necessary, to determine eligibility. The request is generally sent to the applicant within 5 days of receipt of the application and provides 30 days to return the needed documents. If the verifications are not submitted within 30 days of the date of the request, MassHealth benefits may be denied (130 CMR 516.001(C)). Thereafter, if one or more of the documents are submitted within 30 days of the denial, the date of receipt shall be the reapplication date (130 CMR 516.002).

An application for long-term care benefits was submitted to MassHealth on February 27, 2023. On March 8, 2023, MassHealth issued a request for verification of assets and other eligibility factors. On April 1, 2023, MassHealth sent a second request for verifications. On July 17, 2023, MassHealth issued a denial for failure to verify eligibility which identified outstanding documentation necessary to process the application. The following items remain outstanding: statements for 3 bank accounts; documentation of Florida real estate or mobile home; real estate sold in 2019 with a tax assessed value of \$335,000 and the disposition of funds received; and nursing facility screening and SC-1 form from the nursing facility. 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 (130 CMR 515.008(A)). The right to appeal a MassHealth determination of eligibility applies only to an applicant or member not to a nursing facility seeking payment.<sup>1</sup> Thus, the nursing facility's interest beyond

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<sup>1</sup> See 130 CMR 610.001(A) *MassHealth Determinations*. (1) 130 CMR 610.000 sets out the process for requesting and participating in a fair hearing that allows **dissatisfied applicants, members, or nursing facility residents** to have administrative review of certain actions or inactions on the part of the MassHealth agency and of determinations by a MassHealth managed care contractor.

representing Appellant cannot be adjudicated here. Appellant has not provided to MassHealth verification of assets and other eligibility factors. Regulation 130 CMR 516.003(G) allows verification exceptions for special circumstances: “(e)xcept with respect to the verifications of citizenships and immigration status, the MassHealth agency will permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria **when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster.**” An exception for special circumstances does not apply to the facts at hand.<sup>2</sup> Therefore, the appeal must be 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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: Appeals Coordinator: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

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<sup>2</sup> Email communication between the nursing facility and Appellant’s son is documented and shows the nursing facility’s efforts to secure existing documentation (Exhibit 4, pp.12-26).