

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2308326
<b>Decision Date:</b>	10/10/2023	<b>Hearing Date:</b>	10/03/2023
<b>Hearing Officer:</b>	Paul C. Moore		

**Appellant Representative:**



**MassHealth Representative:**

Joan Rivera, 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

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Verifications
<b>Decision Date:</b>	10/10/2023	<b>Hearing Date:</b>	10/03/2023
<b>MassHealth Rep.:</b>	Joan Rivera	<b>Appellant Rep.:</b>	Consultant
<b>Hearing Location:</b>	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 July 17, 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 within the required time frame (Exhibit 1). On September 14, 2023, the appellant timely filed an appeal and requested a fair hearing with the Board of Hearings (BOH) (Exhibit 2; 130 CMR 610.015(B)(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.

### 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 under age 65, applied for MassHealth long-term care coverage on February 14, 2023. He has been a resident of a nursing facility since at least [REDACTED] 2022. After receiving the application, MassHealth requested verifications of the appellant's income and assets, but not all responsive documentation was timely received. Therefore, on July 17, 2023, MassHealth issued a denial notice to the appellant (Exh. 1). The appellant timely appealed (Exh. 2).

On the denial notice, MassHealth listed the missing documentation as follows:

[REDACTED] savings account – submit all bank statements from 7/1/2022 to present, explaining all deposits or withdrawals of \$1,500.00 or more;

[REDACTED] checking account -- submit all bank statements from 7/1/2022 to present, explaining all deposits or withdrawals of \$1,500.00 or more;

Nursing facility screening notification

(Exh. 1)

The MassHealth representative added that after MassHealth issued the denial notice of July 17, 2023, it subsequently issued a notice of approval to the appellant on July 21, 2023. The approval notice awarded the appellant a coverage start-date of April 10, 2023 (Testimony).<sup>1</sup>

The MassHealth representative did not address whether the appellant, who is under age 65, has been deemed permanently and totally disabled.

The appellant was represented at hearing by a consultant, who testified by telephone. She stated that the nursing facility is requesting a coverage start-date of November 5, 2022. She stated that she was unable to verify where the appellant's Social Security income was being deposited, as MassHealth had requested. This is the appellant's only income. The monthly Social Security deposits do not appear in any of the bank statements. She testified that she contacted [REDACTED] to determine why these deposits did not appear in the bank statements, and the bank apprised her that two of the appellant's accounts were "forced closed" in [REDACTED] 2020 and [REDACTED] 2020, respectively, due to the accounts having credit balances. In addition, the consultant testified that the Social Security office she contacted informed her that the Social Security deposits were indeed deposited into an account the appellant had at [REDACTED] (Testimony).

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<sup>1</sup> Although no SC-1 Form was submitted into evidence, the MassHealth representative testified that she received one from the nursing facility on or about June 30, 2023 requesting a coverage start-date of April 10, 2023 (Testimony).

The consultant testified that although she received the July 21, 2023 MassHealth approval notice awarding a coverage start-date of April 10, 2023, she did not appeal that notice. She was confused about which notice she should appeal (Testimony)

The MassHealth representative testified that she received from the consultant copies of letters from [REDACTED] asserting that both accounts were closed (savings account was closed in [REDACTED] 2020 and checking account was closed in [REDACTED] 2020). The MassHealth representative stated that she also received a copy of the appellant's personal needs allowance (PNA) "trust" account from the facility. She added that MassHealth received all needed verifications from the appellant (Testimony).

The consultant testified that the nursing facility has applied to be the representative-payee for the appellant's Social Security checks.

## Findings of Fact

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

1. The appellant, who is under age 65, filed an application for MassHealth long-term care benefits on February 14, 2023 (Testimony).
2. The appellant has been a resident of a nursing facility since at least [REDACTED] 2022 (Testimony).
3. After receiving the appellant's application, MassHealth requested verifications of the appellant's income and assets, but not all responsive documentation was timely received (Testimony).
4. On July 17, 2023, MassHealth issued a denial notice to the appellant due to missing verifications (Exh. 1).
5. The appellant, through a consultant, filed a timely appeal with the BOH (Exh. 2).
6. MassHealth reported at hearing that it has received all requested verifications (Testimony).
7. There is no evidence if the appellant is permanently and totally disabled.
8. On July 21, 2023, MassHealth issued a notice of approval to the appellant awarding a long-term care coverage start-date of April 10, 2023 (Testimony).
9. The appellant did not file an appeal of the July 21, 2023 MassHealth approval notice (Testimony).

## 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](http://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)

Pursuant to 130 CMR 519.006, "Long-Term Care Residents:"

**(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must**

**(1) be younger than 21 years old or 65 years of age or older, or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;**

(2) be determined medically eligible for nursing-facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;

(3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;

(4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets when One Spouse is Institutionalized; and

(5) not have transferred resources for less than fair market value as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019:

Transfer of Resources Occurring on or after August 11, 1993

(Emphasis added)

Ownership of countable assets must be verified by written documentation (see, 130 CMR 520.005(D)).

Here, the notice at issue concerns the appellant's failure to verify assets and income. At hearing, MassHealth indicated that it has now received all needed verifications. Therefore, the issue on appeal is now moot.

It appears that the appellant is contesting the start-date of the appellant's MassHealth coverage. The consultant acknowledged receiving the notice of approval dated July 21, 2023, but she was confused about which notice to appeal.

Per the Fair Hearing Rules, at 130 CMR 610.015(B), "Time Limits:"

The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

(1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;

...

The appellant would therefore have had 65 days from July 21, 2023 to appeal the approval notice coverage start-date. Based on the evidence adduced at hearing, there is no indication that he did so.<sup>2</sup>

Next, the Fair Hearing Rules at 130 CMR 610.051(B), "Adjustments Resolving Issues," states as follows:

The MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period. If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. . . .

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<sup>2</sup> The BOH computer database also does not reflect that an appeal of the July 21, 2023 notice was received.

The only issue on appeal – missing verifications – has been resolved.

Therefore, pursuant to 130 CMR 610.035 and 610.051, this appeal is DISMISSED.

## **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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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Justine Ferreira, Appeals Coordinator, Taunton MEC