

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |              |                        |            |
|-------------------------|--------------|------------------------|------------|
| <b>Appeal Decision:</b> | Denied       | <b>Appeal Number:</b>  | 2310400    |
| <b>Decision Date:</b>   | 02/01/2024   | <b>Hearing Date:</b>   | 12/01/2023 |
| <b>Hearing Officer:</b> | Thomas Doyle | <b>Record Open to:</b> | 12/15/2023 |

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Leslie Garcia, Tewksbury MEC

**Interpreter:**



*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>            | Failure to Return Annual Renewal; Over 65 |
| <b>Decision Date:</b>     | 02/01/2024     | <b>Hearing Date:</b>     | 12/01/2023                                |
| <b>MassHealth's Rep.:</b> | Leslie Garcia  | <b>Appellant's Rep.:</b> | Pro se                                    |
| <b>Hearing Location:</b>  | Remote (phone) | <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 September 25, 2023, MassHealth ended coverage for appellant because appellant did not return the eligibility review form to MassHealth. (Ex. 1). The appellant filed this appeal in a timely manner on October 25, 2023. (Ex. 2). Denial of assistance is valid grounds for appeal. (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth ended coverage for appellant.

### Issue

The appeal issue is whether MassHealth was correct in ending coverage for appellant because she did not return the eligibility review form to MassHealth.

## Summary of Evidence

Appellant, acting pro se, and the MassHealth worker (worker), appeared by phone and were sworn. The worker testified that an annual renewal was sent to appellant, who is over age 65, in August 2023. She stated that an application from appellant was received in October 2023 and processed. A request for more information was then sent to appellant. The worker stated as of the hearing date, MassHealth was still missing a copy of the front and back of appellant's United Health Care insurance card. She stated the signature page needed to be signed and dated so in November 2023, MassHealth mailed to appellant the signature page for her to sign with a self-addressed, stamped return envelope. The worker stated she needed copies of statements from two bank accounts owned by appellant. The worker asked appellant if she wanted to have another copy of the signature page mailed to her and appellant said yes. The worker then confirmed appellant's mailing address. (Testimony).

Appellant requested more time to send the missing information. The record was left open for two weeks for appellant to fax the information to MassHealth at the number given to her by the worker. (Testimony; Ex. 6). After the expiration of the record open period, this hearing officer emailed the parties asking about the status of the case. (Ex. 7). The worker notified this hearing officer that MassHealth did not receive a copy of appellant's insurance card or the two bank statements or a signed and dated signature page. The hearing officer then emailed the parties, thanking the worker and informing appellant if I did not hear from her by December 21, 2023, the record will be closed and a written decision would be rendered. (Ex. 7). There was no correspondence from appellant.

## Findings of Fact

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

1. Appellant is over the age of 65 and lives in the community. (Ex. 5). Appellant was sent a renewal form in August 2023. (Testimony).
2. An application from appellant was received by MassHealth in October 2023 and processed the same month. (Testimony).
3. A request for more information was sent to appellant. (Testimony).
4. A copy of the signature page of the application was sent to appellant in November 2023 for her to sign and date and return to MassHealth. This was not returned by appellant. (Testimony).
5. As of the date of the hearing, MassHealth needed a copy of appellant's health insurance card,

copies of two bank statements and a signed and dated signature page. (Testimony).

6. The record was left open for appellant to provide the missing items. (Ex. 6). Appellant was provided with the fax number to send in the missing items. Appellant's address was confirmed by the worker and another signature page was mailed to appellant. (Testimony).
7. At the close of the record open period, the MassHealth worker had not received any of the missing items. (Ex. 7).

## Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). Moreover, "[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings." Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983).

### 515.002: Introduction to MassHealth

...

(B) 130 CMR 515.000 through 522.000: Other Division Programs provide the MassHealth requirements for persons who are institutionalized, **65 years of age or older**, or who would be institutionalized without community-based services in accordance with all applicable laws, including Title XIX of the Social Security Act. (emphasis added).

### 516.007: Continuing Eligibility

(A) Annual Renewals. The MassHealth agency reviews eligibility once every 12 months. Eligibility may also be reviewed as a result of a member's changes in circumstances or a change in MassHealth eligibility rules, or as a result of a member's failure to provide verification within requested time frames. The MassHealth agency updates eligibility based on information received as the result of such review. The MassHealth agency reviews eligibility

- (1) by information matching with other agencies, health insurance carriers, and information sources;
- (2) through a written update of the member's circumstances on a prescribed form;
- (3) through an update of the member's circumstances, in person; or (4) based on information in the member's case file.

(B) Eligibility Determinations. The MassHealth agency determines, as a result of this review, if

- (1) the member continues to be eligible for the current coverage type;
- (2) the member's current circumstances require a change in coverage type; or
- (3) the member is no longer eligible for MassHealth.

(C) Eligibility Reviews. MassHealth reviews eligibility in the following ways.

(1) Automatic Renewal. Households, whose continued eligibility can be determined based on electronic data matches with federal and state agencies, will have their eligibility automatically renewed.

(a) The MassHealth agency will notify the member if eligibility has been reviewed using the automatic renewal process.

(b) If the member's coverage type changes to a more comprehensive benefit, the start date for the new coverage is determined as described at 130 CMR 516.006.

(2) MassHealth Eligibility Renewal Application. If the individual is residing in the community and his or her continued eligibility cannot be determined based on reliable information contained in his or her account or electronic data match with federal and state agencies, a MassHealth eligibility review form must be completed.

(a) The MassHealth agency will notify the member of the need to complete the MassHealth eligibility review form.

(b) The member will be given 45 days from the date of the request to return the paper MassHealth eligibility review form.

1. If the review is completed within 45 days, eligibility will be determined using the information provided by the individual with verification confirmed through electronic data matches if available.

2. If the review is not completed within 45 days, eligibility will be terminated within 14 days from the date of the termination notice.

3. If the requested review form is submitted within 30 days from the date of the termination, a second eligibility determination is made within 15 days. Eligibility may be established retroactive to the date of termination, if otherwise eligible.

(c) If the member's coverage type changes, the start date for the new coverage type is effective as of the date of the written notice.

...

#### 515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. 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, including recovery and obtaining or maintaining other health insurance.

After the hearing, the record open period was extended to allow appellant to provide MassHealth with the missing items requested by MassHealth to be able to determine appellant's eligibility. Appellant was given the fax number of MassHealth to return the missing information. When the record open period ended, this hearing officer emailed the parties asking about the status of the case. The worker responded that MassHealth had not yet received the missing information. (Ex. 6). This hearing officer thanked the worker and informed appellant if I did not hear from her within the next three days of the date of the email, the record would close and a decision would be written. Appellant did not respond. Pursuant to the regulations, appellant has failed to cooperate with MassHealth. 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.

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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290