

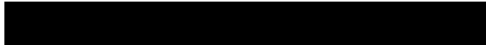
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2310887
Decision Date:	6/27/2024	Hearing Date:	12/21/2023
Hearing Officer:	Scott Bernard	Record Open to:	03/14/2023 extended to 06/17/2024

Appearance for Appellant:



Appearance for MassHealth:

Stephanie Mowles (Quincy MEC) *via* telephone



*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:	Denied	Issue:	Long Term Care/Verifications
Decision Date:	6/27/2024	Hearing Date:	12/21/2023
MassHealth's Rep.:	Stephanie Mowles	Appellant's Rep.:	[REDACTED]
Hearing Location:	Quincy Harbor South	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

Through a notice dated October 18, 2023, MassHealth denied the appellant's application for MassHealth Long Term Care (LTC) benefits because it determined that the appellant did not give it the information it needed to decide her eligibility within the required time-frame. (See 130 CMR 525.008 and Exhibit (Ex.) 1, pp. 2-5). The appellant, through another individual, filed this appeal in a timely manner on November 3, 2023. (See 130 CMR 610.015(B) and Ex. 1, p. 1). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

On November 3, 2023 the Board of Hearings informed the appellant that her appeal would be dismissed but the dismissal could be vacated if within a certain time she returned and submitted an enclosed form or evidence that the individual who submitted the appeal on her behalf had her written authorization to do so. (Ex. 2). On November 22, 2023, the Board of Hearings received a copy of the appellant's Health Care Proxy and activation letter showing that the individual who submitted the appeal on her behalf did, in fact, have authority to do so. (Ex. 3). For that reason, the Board of Hearings notified the appellant and her representatives in writing that it had scheduled a hearing for December 21, 2023. (Ex. 4).

At the hearing, the appellant attorney requested that the record remain open in order to allow him to submit requested verifications. (Ex. 6). The record closed on June 17, 2024 after two extensions. (See Ex. 7, pp. 35, 42, 53; Ex. 15).

Action Taken by MassHealth

MassHealth denied the appellant's LTC application for failure to submit requested verifications in a timely manner.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.001 and 515.008, in determining that the appellant did not submit requested verifications in a timely manner.

Summary of Evidence

The hearing was attended telephonically by an eligibility worker from the Quincy MassHealth Enrollment Center (MEC) and the appellant's attorney.

The MassHealth representative testified to the following. MassHealth received the long-term care application for the appellant on June 5, 2023. (Testimony; Ex. 5, p. 2). MassHealth mailed the first request for information (VC1) notice to the appellant on July 14, 2023 listing all the verifications she needed to submit by October 12, 2023. (Testimony; Ex. 5, pp. 3-5). MassHealth mailed the second and final VC1 notice to the appellant on September 13, 2023, again listing the verifications she needed to submit by October 12, 2023¹. (Testimony; Ex. 5, pp. 6-9). MassHealth did not receive all the requested verifications by October 12, 2023. (Testimony). MassHealth denied the application on October 18, 2023 for failure to submit the requested verifications to MassHealth in the given timeframe; all the missing verifications were listed in the notice. (Testimony; Ex. 1, pp. 2-5; Ex. 5, pp. 10-13). The MassHealth representative stated that the day prior to the hearing, MassHealth did receive requested real estate documents pertaining to an [REDACTED] property, but none of the remaining verifications. (Testimony). The MassHealth representative stated that the verifications sought but not received included those concerning possible sources of income, health insurance, several bank accounts, real estate, the SC1 form, and the nursing facility screening notification. (Testimony).

The appellant attorney stated that he required more time to obtain the documentation MassHealth has requested. (Testimony). He detailed the difficulties that he had faced in tracking down some of the information. He stated that [REDACTED] and [REDACTED] and [REDACTED] had each said that he would need to subpoena the requested information. (Testimony). The appellant attorney explained that [REDACTED] was the unknown bank that administered the IRA and that [REDACTED] was affiliated with [REDACTED] and oversaw the account information MassHealth was seeking. (Testimony). Because of the long list of verifications, the appellant attorney requested a lengthy record open of 90 days. (Testimony).

¹ There was no explanation as to why MassHealth issued two VC1s with the same due date.

Therefore the appellant attorney was given until March 14, 2024 to obtain and submit the following:

1. [REDACTED] Submit a current monthly statement showing the gross monthly benefit amount. If you have any other unreported income, please report all income you receive. Thank you.
2. [REDACTED] Copy of insurance card and current monthly premium bill, if applicable.
3. [REDACTED] Verify if you pay a monthly premium for this Part D insurance plan.
4. [REDACTED] Verify if you pay a monthly premium for this prescription drug plan insurance.
5. [REDACTED] Checking Account [REDACTED] Statements from 2/2023 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
6. BANK UNKNOWN IRA XXXXXX: Statements from 3/2022 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
7. REAL ESTATE [REDACTED] Deed and most recent real estate tax bill. On your Supplement A, you indicated that your son, [REDACTED] was residing in your home and providing care before entering the nursing facility. Please submit his birth certificate, his proof of residency in the home, as well as a letter from your physician stating that he provided necessary care to you for 2+ years, in your home, that allowed you to remain in your home.
8. [REDACTED] This account was found in our federal account matching system. Statements from 1/2022 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
9. [REDACTED] This account was found in our federal account matching system. If this account has closed, please submit one year's worth of bank statements leading up to the account closure. Please verify what happened with the remaining funds upon closure of this account. If this account is open, please submit statement showing the current worth of this CD. If this is not a CD account, please submit all bank statements from 03/2022 to present and verify all transactions over \$1500.
10. [REDACTED] This account was found in our federal account matching system. If this account has closed, please submit one year's worth of bank statements leading up to the account closure. Verify what happened with the remaining funds upon closure of this account. If this account is open, please submit statement showing the current worth of this CD. If this is not a CD account, please submit all bank statements from 03/2022 to present and verify all transactions over \$1500.

11. Real Estate [REDACTED] This property was found in our federal asset match system. Submit the deed and current real estate tax bill to this home. If you sold this home, please submit the HUD and any other applicable sale documents for this property. Please verify where the proceeds from the sale were deposited to. Please verify the value of the real estate and that you received fair market value for the sale.

12. Residence: Notification of admission to facility (SC-1)

13. Nursing Facility Screening Notification. (Ex. 6).

Copies of the above listed documents were to be sent to both the hearing officer and the MassHealth representative. (Ex. 6). The hearing officer also issued the requested subpoenas for service upon the three specified institutions. (Ex. 7, pp. 3-10).

Between December 21, 2023 and March 14, 2024 the Board received some documentation, including documents from [REDACTED] (Ex. 8; Ex. 9; Ex. 10; Ex. 11). In an email dated March 14, 2024 the appellant attorney's office wrote that they were still having difficulty obtaining verifications from [REDACTED] and on March 15, 2024, emailed that they were also having difficulty obtaining the verifications from [REDACTED] (Ex. 7, pp. 27, 28-30). The appellant attorney was given an extension until April 16, 2024 to submit the remaining documents. (Ex. 7, p. 35). On April 10, 2024, the appellant attorney's office contacted the hearing officer again by email stating that they continued to have difficulty with [REDACTED] and required a subpoena to be issued specifically for [REDACTED] and [REDACTED] (Ex. 7, p. 40). The subpoena issued and the hearing officer extended the record open one last time to May 17, 2024 for the appellant attorney and June 17, 2024 for MassHealth. (Ex. 7, p. 42). The appellant attorney's office did submit one further piece of documentation from [REDACTED] on June 17, 2024. (Ex. 15).

On June 25, 2024, the hearing officer emailed MassHealth to ask whether the appellant attorney had submitted all of the requested verifications. (Ex. 16). MassHealth responded by stating that MassHealth did receive the following:

2. [REDACTED] Copy of insurance card and current monthly premium bill, if applicable.

3. [REDACTED] Verify if you pay a monthly premium for this Part D insurance plan.

4. [REDACTED] Verify if you pay a monthly premium for this prescription drug plan insurance.

7. REAL ESTATE [REDACTED] Deed and most recent real estate tax bill. On your Supplement A, you indicated that your son, [REDACTED] was residing in your home and providing care before entering the nursing facility. Please submit his birth certificate, his proof of residency in the home, as well as a letter from your physician stating that he provided necessary care to you for 2+ years, in your home, that allowed you to remain in your home.

11. Real Estate [REDACTED] This property was found in our federal asset match system. Submit the deed and current real estate tax bill to this home. If

you sold this home, please submit the HUD and any other applicable sale documents for this property. Please verify where the proceeds from the sale were deposited to. Please verify the value of the real estate and that you received fair market value for the sale.

12. Residence: Notification of admission to facility (SC-1)

13. Nursing Facility Screening Notification. (Ex. 16; Ex. 6).

MassHealth, however, had not received the following:

1. [REDACTED] Submit a current monthly statement showing the gross monthly benefit amount. If you have any other unreported income, please report all income you receive.
5. [REDACTED] Statements from 2/2023 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
6. BANK UNKNOWN IRA XXXXXX: Statements from 3/2022 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
8. [REDACTED] This account was found in our federal account matching system. Statements from 1/2022 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
9. [REDACTED] This account was found in our federal account matching system. If this account has closed, please submit one year's worth of bank statements leading up to the account closure. Please verify what happened with the remaining funds upon closure of this account. If this account is open, please submit statement showing the current worth of this CD. If this is not a CD account, please submit all bank statements from 03/2022 to present and verify all transactions over \$1500.
10. [REDACTED] This account was found in our federal account matching system. If this account has closed, please submit one year's worth of bank statements leading up to the account closure. Verify what happened with the remaining funds upon closure of this account. If this account is open, please submit statement showing the current worth of this CD. If this is not a CD account, please submit all bank statements from 03/2022 to present and verify all transactions over \$1500. (Ex. 16; Ex. 6).

Findings of Fact

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

1. MassHealth received the long-term care application for the appellant on June 5, 2023. (Testimony; Ex. 5, p. 2).

2. The appellant was admitted to the nursing facility in [REDACTED] (Exhibit 17).
3. MassHealth mailed the first VC1 notice to the appellant on July 14, 2023 listing all the verifications she needed to submit by October 12, 2023. (Testimony; Ex. 5, pp. 3-5).
4. MassHealth mailed the second and final VC1 notice to the appellant on September 13, 2023, again listing the verifications she needed to submit by October 12, 2023. (Testimony; Ex. 5, pp. 6-9).
5. MassHealth did not receive all the requested verifications by October 12, 2023. (Testimony).
6. MassHealth denied the application on October 18, 2023 for failure to submit the requested verifications to MassHealth in the given timeframe; MassHealth included a list of all the missing verifications. (Testimony; Ex. 1, pp. 2-5; Ex. 5, pp. 10-13).
7. The appellant submitted a timely request for a hearing on November 3, 2023. (Ex. 1).
8. The day prior to the hearing, MassHealth received requested real estate documents pertaining to an [REDACTED] property but none of the remaining verifications. (Testimony).
9. The appellant attorney described the difficulties his office was having obtaining the requested verifications. (Testimony).
10. At the appellant attorney's request, the record was left open until March 14, 2024 to allow him to submit the remaining verifications. (Ex. 6).
11. The record open was later extended to April 16 and then May 17, 2024. (Ex. 7, pp. 27, 28-30, 35, 40, 42).
12. As of June 25, 2024, MassHealth confirmed receiving the following:
 - a. [REDACTED] Copy of insurance card and current monthly premium bill, if applicable.
 - b. [REDACTED] Verify if you pay a monthly premium for this Part D insurance plan.
 - c. [REDACTED] Verify if you pay a monthly premium for this prescription drug plan insurance.
 - d. [REDACTED] Deed and most recent real estate tax bill. On your Supplement A, you indicated that your son, [REDACTED] was residing in your home and providing care before entering the nursing facility. Please submit his birth certificate, his proof of residency in the home, as well as a letter from your physician stating that he provided necessary care to you for 2+ years, in your home, that allowed you to remain in your home.

- e. Real Estate [REDACTED] This property was found in our federal asset match system. Submit the deed and current real estate tax bill to this home. If you sold this home, please submit the HUD and any other applicable sale documents for this property. Please verify where the proceeds from the sale were deposited to. Please verify the value of the real estate and that you received fair market value for the sale.
- f. Residence: Notification of admission to facility (SC-1).
- g. Nursing Facility Screening Notification. (Ex. 16; Ex. 6).

13. MassHealth stated it had not received the following:

- a. [REDACTED] Submit a current monthly statement showing the gross monthly benefit amount. If you have any other unreported income, please report all income you receive.
- b. [REDACTED] Statements from 2/2023 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
- c. BANK UNKNOWN IRA XXXXXX: Statements from 3/2022 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
- d. [REDACTED] This account was found in our federal account matching system. Statements from 1/2022 to present date. Proof of all transactions \$1500 or greater with documentation, such as check copies, invoices, bills, receipts, etc.
- e. [REDACTED] This account was found in our federal account matching system. If this account has closed, please submit one year's worth of bank statements leading up to the account closure. Please verify what happened with the remaining funds upon closure of this account. If this account is open, please submit statement showing the current worth of this CD. If this is not a CD account, please submit all bank statements from 03/2022 to present and verify all transactions over \$1500.
- f. [REDACTED] This account was found in our federal account matching system. If this account has closed, please submit one year's worth of bank statements leading up to the account closure. Verify what happened with the remaining funds upon closure of this account. If this account is open, please submit statement showing the current worth of this CD. If this is not a CD account, please submit all bank statements from 03/2022 to present and verify all transactions over \$1500. (Ex. 16; Ex. 6).

Analysis and Conclusions of Law

MassHealth applicants must cooperate in providing information necessary to establish eligibility

and must comply with all the rules and regulations of MassHealth. (130 CMR 515.008(A)). Once MassHealth receives an application for LTC benefits it will send the applicant written notification (generally within five days) requesting all corroborative information necessary to determine eligibility with a due date of at least 30 days. (130 CMR 516.001(B)(1)). If the requested information is not received by the due date, MassHealth benefits may be denied. (130 CMR 516.001(C)) MassHealth extended the time limit for submission of verifications to 90 days.

MassHealth sent the appellant a request for verifications on July 14, 2023 with a due date 90 days later on October 12, 2023. MassHealth sent the request again on September 13, 2023. MassHealth did not receive the requested verifications by October 12, 2023, and therefore MassHealth denied the appellant's application for Long Term Care on October 18, 2023. Pursuant to a timely appeal of MassHealth's denial, the appellant's attorney explained the difficulty in obtaining the verifications and requested the record be left open in order to allow further time to submit the requested documents. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)). There were extensions requested and approved subsequently. This, however, did not result in submission of all the requested verifications even after the last submission on June 17, 2024, after the close of the record open period. As of June 25, 2024 there continued to be a number of verifications that remain missing. These include statements for two [REDACTED] accounts and two [REDACTED] certificates of deposit. The record does not demonstrate that all requested verifications have been submitted.

The appellant was admitted to the nursing facility in [REDACTED] and applied for MassHealth in June, 2023. (Exhibit 17). The appellant has had almost a year from her application date to submit the financial information necessary for MassHealth to determine eligibility but still has not submitted all the necessary verifications.

For the above stated reasons, the 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.

Scott Bernard
Hearing Officer
Board of Hearings

CC:

[REDACTED]

[REDACTED]

Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171