

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved, Remanded	Appeal Number:	2311249
Decision Date:	9/23/2024	Hearing Date:	4/22/2024
Hearing Officer:	Patrick Grogan	Record Open to:	8/16/2024

Appearance for Appellant:



Appearance for MassHealth:

Douglas Thompson, Charlestown MEC

Interpreter:

N/A



*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:	Approved, Remanded	Issue:	Eligibility over 65, Long Term Care, Verifications
Decision Date:	9/23/2024	Hearing Date:	4/22/2024
MassHealth's Rep.:	Douglas Thompson	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (Tel)	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 12, 2023, MassHealth denied the Appellant's application for MassHealth benefits (Long-Term-Care Services in a Nursing Facility) because MassHealth determined that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1). The Appellant filed this appeal in a timely manner on November 9, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth benefits (Long-Term-Care Services in a Nursing Facility) because MassHealth determined that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1).

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1).

Summary of Evidence

The Appellant's estate is seeking coverage for an individual over the age of ■ who sought MassHealth benefits (Long-Term-Care Services in a Nursing Facility) prior to his passing. On October 12, 2023, MassHealth determined that the Appellant was not eligible due to missing verifications. (Exhibit 1) From this determination, the instant appeal follows.

At the Hearing held on April 22, 2024, MassHealth testified that multiple items remained outstanding: updated bank statements from various accounts from a specific credit union, updated information related to the Appellant's spouse's pension, updated information regarding a specific retirement account, updated information regarding income from stocks, updated information related to various life insurance policies and annuities, updated level of care screen with an undated SC-1, as well as an update regarding home owner's insurance. (Testimony, Exhibit 5, pgs. 1-2) The Appellant's estate, through the Appeal Representative, requested additional time to produce the missing items. (Testimony). The Record was left open for the Appellant until June 28, 2024, to produce to MassHealth the outstanding verifications. (Exhibit 6) The Record was further extended until July 19, 2024 for MassHealth to review the verifications. (Exhibit 6)

On July 1, 2024, the Appeal Representative reached out to MassHealth to discuss the status of the missing verifications. (Exhibit 7) A request to extend the Record Open period was allowed, the Record Open period was extended for the Appellant until August 2, 2024, and for MassHealth until August 16, 2024. (Exhibit 7, pg. 2). Additional information was provided by the Appeal Representative. (Exhibit 8)

On August 16, 2024, MassHealth indicated that information remained outstanding, specifically updated bank statements from various accounts from a specific credit union as well as an update regarding homeowner's insurance. (Exhibit 9, pgs. 18-19) MassHealth acknowledged that a partial fax has been received in November of 2023, and it was possible that the information had been submitted, but not received by MassHealth. (Exhibit 9, pg. 19) In response, on August 16, 2024, the Appeal Representative resent the outstanding bank statements and responded to the inquiry regarding homeowner's insurance. (Exhibit 9, pg. 17)

On August 19, 2024, MassHealth responded that the documents were under review. (Exhibit 9, pg. 16). On September 3, 2024, having received no further update, an inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered

verifications. (Exhibit 9, pg. 13). No response was received by MassHealth.

On September 9, 2024, an additional inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. (Exhibit 9, pgs. 12-13) On September 10, 2024, MassHealth responded that due to illness, a response had not been sent. (Exhibit 9, pg. 1). MassHealth stated that MassHealth would attempt a response on September 11, 2024. (Exhibit 9, pg. 1) No response was received. On September 16, 2024, yet another inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. No response was received through September 20, 2024, in excess of a month after the Record Open period had expired¹.

Findings of Fact

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

1. The Appellant's estate is seeking coverage for an individual over the age of [REDACTED] who sought MassHealth benefits (Long-Term-Care Services in a Nursing Facility) prior to his passing.
2. On October 12, 2023, MassHealth determined that the Appellant was not eligible due to missing verifications. (Exhibit 1)
3. At the Hearing held on April 22, 2024, MassHealth explained multiple items remained outstanding: updated bank statements from various accounts from a specific credit union, updated information related to the Appellant's spouse's pension, updated information regarding a specific retirement account, updated information regarding income from stocks, updated information related to various life insurance policies and annuities, updated level of care screen with an undated SC-1, as well as an update regarding home owner's insurance. (Testimony, Exhibit 5, pgs. 1-2)
4. The Appellant's estate, through the Appeal Representative, requested additional time to produce the missing items. (Testimony). The Record was left open for the Appellant until June 28, 2024, to produce to MassHealth the outstanding verifications. (Exhibit 6) The Record was further extended until July 19, 2024 for MassHealth to review the verifications. (Exhibit 6)
5. A request to extend the Record Open period was allowed, the Record Open period was

¹ Appeal # 2311249 appeals Notice 65574804, dated October 12, 2023, denying the Appellant MassHealth coverage due to missing verifications. The issue of the Appellant's eligibility due to excess assets has not been addressed in this appeal. MassHealth has not submitted any evidence of a determination made by MassHealth regarding the Appellant's eligibility due to countable assets.

extended for the Appellant until August 2, 2024, and for MassHealth until August 16, 2024. (Exhibit 7, pg. 2). Additional information was provided by the Appeal Representative. (Exhibit 8)

6. On August 16, 2024, MassHealth indicated that information remained outstanding, specifically updated bank statements from various accounts from a specific credit union as well as an update regarding homeowner's insurance. (Exhibit 9, pgs. 18-19) MassHealth acknowledged that a partial fax has been received in November of 2023, and it was possible that the information had been submitted, but not received by MassHealth. (Exhibit 9, pg. 19) In response, on August 16, 2024, the Appeal Representative resent the outstanding bank statements and responded to the inquiry regarding homeowner's insurance. (Exhibit 9, pg. 17)
7. On August 19, 2024, MassHealth responded that the documents were under review. (Exhibit 9, pg. 16).
8. On September 3, 2024, having received no further update, an inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. (Exhibit 9, pg. 13). No response was received by MassHealth.
9. On September 9, 2024, an additional inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. (Exhibit 9, pgs. 12-13) On September 10, 2024, MassHealth responded that due to illness, a response had not been sent. (Exhibit 9, pg. 1). MassHealth stated that MassHealth would attempt a response on September 11, 2024. (Exhibit 9, pg. 1) No response was received on September 11, 2024.
10. On September 16, 2024, yet another inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. No response was received through September 20, 2024, in excess of a month after the Record Open period had expired.

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. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for

noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The Appellant in this case is an institutionalized person over the age of 65. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

MassHealth may provide coverage for low- and moderate-income individuals and couples:

515.002: Introduction to MassHealth

(A) The MassHealth agency is responsible for the administration and delivery of health-care services to low- and moderate-income individuals and couples.

(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.

As a threshold to coverage, MassHealth must determine eligibility of an Appellant. In order to determine an Appellant's eligibility, it is incumbent upon an applicant to cooperate with MassHealth and provide necessary information for a determination:

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.

Here, MassHealth required additional information to determine eligibility, and despite requests for additional information, ultimately did not receive the information required for the determination. (Exhibit 1, Testimony, 130 CMR 516.001(B)) A Notice of denial was sent to the Appellant in accordance with the Regulations. (Exhibit 1, 130 CMR 516.001 (C)).

516.001: Application for Benefits

(B) Corroborative Information. The MassHealth agency requests all corroborative information necessary to determine eligibility.

(1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of receipt of the application.

(2) The notice 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.

(C) Receipt of Corroborative Information. If the requested information, with the exception of verification of citizenship, identity, and immigration status, is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.

At the Hearing held on April 22, 2024, MassHealth testified that multiple items of verification remained outstanding. (Testimony. Exhibit 5) The Appellant's estate, through the Appeal Representative, requested additional time to produce the missing items. (Testimony). The Record was left open for the Appellant until June 28, 2024, to produce to MassHealth the outstanding verifications. (Exhibit 6) The Record was further extended until July 19, 2024 for MassHealth to review the verifications. (Exhibit 6)

On July 1, 2024, the Appeal Representative reached out to MassHealth to discuss the status of the missing verifications. (Exhibit 7) A request to extend the Record Open period was allowed, the Record Open period was extended for the Appellant until August 2, 2024, and for MassHealth until August 16, 2024. (Exhibit 7, pg. 2). Additional information was provided by the Appeal Representative. (Exhibit 8)

On August 16, 2024, MassHealth indicated that information remained outstanding, specifically updated bank statements from various accounts from a specific credit union as well as an update regarding homeowner's insurance. (Exhibit 9, pgs. 18-19) MassHealth acknowledged that a partial fax has been received in November of 2023, and it was possible that the information had been submitted, but not received by MassHealth. (Exhibit 9, pg. 19) In response, on August 16, 2024, the Appeal Representative resent the outstanding bank statements and responded to the inquiry regarding homeowner's insurance. (Exhibit 9, pg. 17)

On August 19, 2024, MassHealth responded that the documents were under review. (Exhibit 9, pg. 16). On September 3, 2024, having received no further update, an inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. (Exhibit 9, pg. 13). No response was received by MassHealth.

On September 9, 2024, an additional inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. (Exhibit 9, pgs. 12-13) On September 10, 2024, MassHealth responded that due to illness, a response had not been sent. (Exhibit 9, pg. 1). MassHealth stated that MassHealth would attempt a response on September 11, 2024. (Exhibit 9, pg. 1) No response was received. On September 16, 2024, yet another inquiry was sent to the parties, requesting an update regarding the status of MassHealth's review of the proffered verifications. No response was received through September 20, 2024, in excess of a month after the Record Open period had expired.

An Appellant has a duty to cooperate with MassHealth and provide necessary information. (130 CMR 515.008) An Appellant must provide corroborative information for MassHealth to determine eligibility. (130 CMR 516.001). Here, the Appellant has cooperated with MassHealth to provide the necessary initial information and corroborative information for MassHealth to make a determination regarding eligibility for MassHealth benefits (Long-Term-Care Services in a Nursing Facility). The Appellant has submitted updated bank statements and responses to MassHealth inquiries, however, MassHealth has not responded to requests for updates regarding MassHealth's review of the updated bank statements submitted. (Exhibit 9). Based upon the lack of response from MassHealth to inquiries posed, it is unclear, on this Record, what, if any, determination MassHealth has made. MassHealth's initial position that bank statements and other information remained outstanding in August of 2024 is belied by this Administrative Record. (Exhibit 8, Exhibit 9). According, based upon this Record, I find that the Appellant has met the burden, by a preponderance of evidence, to show the invalidity of MassHealth's determination. Accordingly, this Appeal is APPROVED. It appears that the Appellant has tendered all of the enumerated outstanding verifications, as evidenced in this Record. (Exhibit 1, Exhibit 8, Exhibit 9) Additionally, since the verifications have been submitted, MassHealth now must determine the Appellant's eligibility. The enumerated verifications having been received; this case is REMANDED to MassHealth to determine the Appellant's eligibility for MassHealth coverage.

Order for MassHealth

Review the Appellant's submissions and determine the Appellant's eligibility in accordance with 130 CMR 520.003 and 130 CMR 520.004².

Notification of Your Right to Appeal to Court

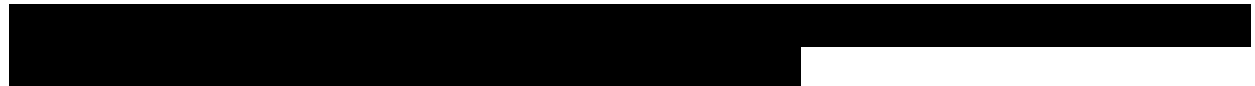
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

² The Appellant retains the right to appeal the new determination of MassHealth, if the Appellant chooses.

Patrick M. Grogan
Hearing Officer
Board of Hearings



MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129