

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311340
Decision Date:	5/24/2024	Hearing Date:	12/04/2023
Hearing Officer:	Christopher Jones	Record Open to:	05/20/2024

Appearance for Appellant:



Appearance for MassHealth:

Mary Vieira – Taunton Intake



*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:	5/24/2024	Hearing Date:	12/04/2023
MassHealth's Rep.:	Mary Vieira	Appellant's Rep.:	
Hearing Location:	Telephonic	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 10, 2023, MassHealth denied the appellant's application for long-term care benefits because the appellant did not provide needed information. (Exhibit 1; 130 CMR 515.008.) The appellant filed this appeal in a timely manner on November 9, 2023. (Exhibit 1; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

The hearing record was left open at the appellant's request until May 20, 2024, to document his income.

Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits because the appellant did not verify his gross income.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the appellant failed to cooperate with MassHealth's request for eligibility information.

Summary of Evidence

An application for long-term care services was submitted on the appellant's behalf on May 1, 2023. MassHealth sent a checklist of required verifications to the appellant on May 10, 2023, and a revised request was sent on July 14, 2023. When the required verifications were not received, MassHealth sent out the appealed denial notice on October 10, 2023. At the hearing, MassHealth's representative explained that, as of the hearing, the only missing verifications were proof of the appellant's gross pension income, proof of his private health insurance, and the nursing-facility documents. MassHealth's representative agreed that the application could be processed with just the gross income verification, and the other documents could be provided after this appeal had been resolved.

The appellant's sister is his power of attorney. She testified that she lives in another state and is finding it difficult to manage the appellant's affairs from afar. She testified that the appellant had worked for the federal government, and the Office of Personnel Management (OPM) was very slow in responding to her requests. She requested that the hearing record be left open for her to get a gross pension statement from OPM. After multiple extensions, the appellant's power of attorney requested a subpoena, alleging that OPM was not responsive to her calls and written requests for information. A subpoena was issued by the hearing officer on May 6, and the appellant's power of attorney was required to respond by May 20 to confirm that it had been mailed.¹ The appellant's power of attorney did not respond in a timely manner.

The record is now closed.

Findings of Fact

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

- 1) The appellant is a resident in a long-term care facility. An application was filed on his behalf on May 1, 2023. (Exhibit 4.)
- 2) MassHealth requested verifications, including proof of gross income, on May 10, 2023, and again on July 14, 2023. (Exhibit 4.)
- 3) On October 1, 2023, MassHealth denied the appellant's application for long-term care benefits because he did not provide proof of income. (Exhibit 1.)

¹ A subpoena had originally been offered on March 21, but the appellant's power of attorney decided against serving it. Because the power of attorney was hesitant to serve the subpoena, she was given until May 20 to confirm that she had mailed, return receipt, the May 6 subpoena. Had she done so, the record open period would have been extended to June 28, the deadline on the subpoena for OPM to respond. (See Exhibit 5.)

- 4) The record was left open following the hearing for the appellant to submit proof of income. After multiple extensions, proof of income was never submitted, and the record is now closed. (Exhibit 5.)

Analysis and Conclusions of Law

MassHealth members must establish financial eligibility, which includes showing that their assets are below a threshold and that they reduced their assets in accordance with state and federal law. (See 130 CMR 520.000.) To qualify for long-term-care benefits, an applicant must complete an application and cooperate with the MassHealth agency by submitting corroborative information. (See 130 CMR 516.001(B).) If the requested verifications are received within 30 days, “the application is considered complete” and MassHealth continues to “determine the coverage type ... for which the applicant is eligible.” (130 CMR 516.001(C).) MassHealth may deny an application where the member has failed to provide requested information within 30 days. (130 CMR 516.001(C).) If some, but not all, of the requested information is received within 30 days of the denial, MassHealth deems the date of receipt to be the date of reapplication, and the agency will send out a new verification request. If a MassHealth member fails to cooperate with MassHealth and submit the documentation requested, MassHealth will deny the member’s application. (See 130 CMR 515.008(C).)

The appellant failed to submit all requested information and cooperate with MassHealth during the processing of their application. Despite multiple extensions afforded through the fair hearing process, the requested verifications have still not been provided.

For this reason, 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.

Christopher Jones
Hearing Officer
Board of Hearings

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

Appellant's Representative: : [REDACTED]
[REDACTED]