

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |              |                       |            |
|-------------------------|--------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied       | <b>Appeal Number:</b> | 2311551    |
| <b>Decision Date:</b>   | 1/5/2024     | <b>Hearing Date:</b>  | 12/14/2023 |
| <b>Hearing Officer:</b> | Mariah Burns |                       |            |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Evelyn Daniel, Springfield MassHealth  
Enrollment Center



*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>            | Long-Term Care;<br>Benefit Start Date |
| <b>Decision Date:</b>     | 1/5/2024      | <b>Hearing Date:</b>     | 12/14/2023                            |
| <b>MassHealth's Rep.:</b> | Evelyn Daniel | <b>Appellant's Rep.:</b> |                                       |
| <b>Hearing Location:</b>  | Remote        | <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 October 30, 2023, MassHealth approved the appellant's application for MassHealth Standard long-term care coverage with a benefit start date of February 1, 2023. Exhibit 1. The appellant filed this appeal in a timely manner on November 15, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging agency determinations regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032(5).

### Action Taken by MassHealth

MassHealth approved the appellant's long-term care benefit with a start date of February 1, 2023.

### Issue

The appeal issue is whether MassHealth correctly determined the appellant's benefit start date to be February 1, 2023.

### Summary of Evidence

The appellant is an adult over the age of 65 who currently resides in a skilled nursing facility. She

was represented at hearing by her son and power of attorney. MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the evidence and testimony provided at hearing:

MassHealth received the appellant's application for long-term care benefits on May 3, 2023. On October 30, 2023, she was approved for Standard benefits with a start date of February 1, 2023, which is the first day of the month 90 days from the application date. The MassHealth representative checked agency records under both the appellant's name and Social Security number and was unable to find an application in the system prior to May 3. She reported that MassHealth did receive a nursing facility screening in December of 2022, but without an application, MassHealth is unable to take any action in reviewing eligibility for coverage.

The appellant's representative reported that he hired an attorney to assist with the application process for his mother's MassHealth long-term care benefits. He provided a letter that the attorney purportedly sent on October 25, 2022. Exhibit 5 at 1. However, the attorney was unable to produce any confirmation of receipt. Further, the appellant's representative reported the attorney only appeared to follow up with MassHealth regarding the application at the representative's request in April or May of 2023, which is evidenced by a letter dated May 3, 2023, in which the attorney inquires as to the status of the appellant's application. The appellant's representative agreed that he could produce no evidence that MassHealth received the application in October and reported that he relied on the representations made to him by the attorney that the application was complete.

## **Findings of Fact**

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

1. On May 3, 2023, MassHealth received an application for Standard long-term care benefits on behalf of the appellant. Testimony, Exhibit 6 at 1, 6, 11.
2. On October 30, 2023, MassHealth approved the appellant for long-term care benefits with a start date of February 1, 2023. Exhibit 1.
3. The appellant submitted a timely appeal on November 15, 2023. Exhibit 2.
4. There is no evidence that MassHealth received the appellant's application prior to May 3, 2023. *See generally*, Exhibit 6; Testimony.

## **Analysis and Conclusions of Law**

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth

members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (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.

130 CMR 519.006(A). The start date for such coverage depends on when an individual submits their application to MassHealth. See 130 CMR 516.006(A). For MassHealth Standard, Family Assistance, and Limited, coverage start date "may be retroactive to the first day of the third calendar month before the month of application..." *Id.* At any fair hearing conducted under 130 CMR 610.000, the appellant bears the burden of proof "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon "evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency's interpretation of its rules, policies and regulations." 130 CMR 610.082(A) and (B).

Here, MassHealth records clearly show that, although they received a nursing facility screening in December of 2022, they did not receive the appellant's application until May 3, 2023. Thus, the regulations prevent them from applying retroactive coverage any earlier than the approved start date of February 1, 2023. I fully credit the testimony of the MassHealth representative that she was unable to find any application received under the appellant's name or Social Security number

prior to May 3. I also fully credit the testimony of the appellant's representative, who reported that he relied entirely on the representations of his retained attorney that the application was submitted in October of 2022. However, the attorney's letter from October submitted into evidence bears no indication that it was ever received by MassHealth. It was incumbent upon the attorney to confirm that the application was received in October if an earlier start date was required.

As such, the appellant provided no evidence to suggest that the February 1, 2023, start date was incorrect or inappropriate. I find that MassHealth made no error in issuing the October 30, 2023, notice reflecting that date.

For the foregoing reasons, the appeal is hereby 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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Mariah Burns  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186