

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2312494
Decision Date:	2/7/2024	Hearing Date:	01/04/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	02/06/2024

Appearance for Appellant:



Appearance for MassHealth:

Kim Sok



*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	Issue:	Eligibility
Decision Date:	2/7/2024	Hearing Date:	01/04/2024
MassHealth's Rep.:	Kim Sok	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone		

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 November 21, 2023, MassHealth denied the appellant's application for long-term care benefits for failure to provide information necessary to complete the application. (130 CMR 516.001; Exhibit 1). The appellant's Health Care Proxy and individual named on a valid Authorized Representative Designation Form for the appellant filed a timely appeal on December 4, 2023, naming the party present at hearing as the appeal representative. (130 CMR 610.004; 130 CMR 610.015(B); Exhibit 2; Exhibit 3; Exhibit 4). A hearing was scheduled for January 4, 2024 and at the request of the parties, the record was held open until February 6, 2024. (Exhibit 5; Exhibit 7).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for failure to provide information necessary to complete the application. (130 CMR 516.001).

Issue

Whether MassHealth was correct in denying the appellant's application for failure to provide information necessary to complete the application.

Summary of Evidence

On July 25, 2023, MassHealth received an application for long-term care seeking coverage as of June 2, 2023. On August 8, 2023, MassHealth issued a notice seeking information necessary to complete the eligibility determination. Information was due on or before November 13, 2023. (Testimony; Exhibit 8). In September or October of 2023, MassHealth discovered information about another bank account. On October 3, 2023, MassHealth issued a second information request giving the appellant until November 13, 2023 to verify information for that account. (Exhibit 8). The October 3, 2023 request also includes some of the information for which MassHealth was seeking verification as of August 8, 2023. (Exhibit 8). On November 21, 2023, MassHealth issued a notice determining the appellant ineligible for long-term care coverage for failure to provide information necessary to determine eligibility.

The notice on appeal states that the application was denied as the appellant needs to provide income from other unearned income and information from the bank account discovered through MassHealth systems which the appellant was provided with 30 days to verify. (Exhibit 1). The notice provided to the Board of Hearings with the request for hearing has a handwritten note stating “also need life insurance”. It is unclear who put the notation on the notice issued by MassHealth as it was provided to the Board of Hearings by the appellant’s representative with the request for hearing. (Exhibit 1; Exhibit 2). The August 2023 and October 2023 requests for information submitted by the MassHealth representative do not list the need for verification of a life insurance policy. The MassHealth denial notice submitted with the request for hearing has a checkmark and statement saying things are “all set” over language regarding the need for verification of “income from unearned income”. It is unclear who made the note and neither party raised issues regarding verification of income that remained outstanding.

At hearing, the appellant’s representative testified that some of the information has been provided and noted that she has been in contact with the appellant’s daughter who is working to obtain all of the information requested by the agency.

When questioned about the application of regulations and policies regarding requests for information, neither party could cite regulations or policies regarding the basis for the agency decision, obligations of a member or the agency. The record was held open as the MassHealth representative did not provide copies of the requests for information noted at hearing, and the appellant was provided with the opportunity to present additional evidence. (Exhibit 7).

During the record open period, the MassHealth representative provided copies of the requests for information issued to the appellant. (Exhibit 8). The appellant’s representative provided a copy of a Status Change (SC-1 Form), a determination that the appellant is clinically eligible for MassHealth long-term care, a letter regarding the cancellation of a life insurance policy, and statements from November and December 2023 regarding the bank account listed on the initial request for information. (Exhibit 9). The appellant’s representative also provided a memorandum stating that

the appellant's daughter is still seeking information for the bank account listed on the October 3, 2023 request for information and copies of information regarding a life insurance policy. (Exhibit 9). Upon a review of the records presented by the appellant's representative, the MassHealth representative responded that the appellant "remains denied due to the missing life insurance and bank statements that have not yet been provided". (Exhibit 10).

Findings of Fact

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

1. On July 25, 2023, MassHealth received an application for long-term care seeking coverage as of June 2, 2023.
2. On August 8, 2023, MassHealth issued a notice seeking information necessary to complete the eligibility determination.
3. Information was due on or before November 13, 2023.
4. In September or October of 2023, MassHealth discovered information about another bank account.
5. On October 3, 2023, MassHealth issued a second information request providing the appellant until November 13, 2023 to verify information for that account.
6. The October 3, 2023 information request also includes some of the information for which MassHealth was seeking verification as of August 8, 2023.
7. On November 21, 2023, MassHealth issued a notice determining the appellant ineligible for long-term care coverage for failure to provide information necessary to determine eligibility.
8. The notice on appeal states that the application was denied as the appellant needs to provide income from other unearned income and information from the bank account discovered through MassHealth systems which the appellant was provided with 30 days to verify.
9. The notice provided to the Board of Hearings with the request for hearing has a handwritten note stating "also need life insurance".
10. The requests for information issued in August 2023 and October 2023 do not list the need for verification of a life insurance policy.
11. The same notice has a checkmark and statement saying things are "all set" over language

regarding the need for verification of “income from unearned income”.

Analysis and Conclusions of Law

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. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 515.008, applicants or members must cooperate with MassHealth in providing information to establish and maintain eligibility and must comply with all of the rules and regulations governing MassHealth, including recovery. MassHealth may request additional information and documentation, if necessary, to determine eligibility. (130 CMR 516.001).

To obtain the necessary information and documentation, MassHealth sends the applicant written notification requesting verifications to corroborate information necessary to determine eligibility, generally within five days of the receipt of the application. (130 CMR 516.001(B)). The notice advises the applicant that the requested verifications must be received within 30 days of the date of the request, and of the consequences of failure to provide the information. (130 CMR 516.001(B)). Under the regulations, if the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied. (130 CMR 516.001(C)). In March 2023, to align timelines for Modified Adjusted Gross Income (MAGI) and non-MAGI populations, MassHealth extended the number of days for non-MAGI members and applicants to send MassHealth verifications and information necessary for an eligibility determination from 30 days to 90 days. (Eligibility Operations Memo (EOM) 23-09).

In this case, the appellant was provided with the appropriate 90 days to provide the information necessary for an eligibility determination in the initial request for information. (130 CMR 516.001; EOM 23-09). In October 2023, MassHealth issued a second request for information of assets not listed on the August 2023 request and provided the appellant 30 days to provide that information. As noted in the summary above, neither the MassHealth representative at hearing nor the appellant’s representative could cite a regulation or policy that would allow the agency to provide a different timeline for presenting new information. Additionally, the requests for information provided to the Board of Hearings do not include a request for information regarding a life insurance policy. The requests submitted to the Board of Hearings list specific accounts, sources of income and other assets which the appellant must verify. It is unclear why the agency would provide an applicant less time to verify asset and income information that the agency discovered the need for after the issuance of the first

notice, when the applicant receives notice and 90 days to verify other asset and income information. The regulations and EOM speak to the requirements for the agency and member. The agency did not follow the proper regulatory or policy requirements noted above and could not cite any regulatory or policy requirements for which they based the denial on appeal seeking information regarding a bank account for which the appellant had only 30 days to provide information. Additionally, it is not clear when MassHealth requested information about a life insurance policy and the time allowed for the appellant to provide information related to that policy as it is not listed in any of the notices presented during the course of the appeal. The notice on appeal lists only the need for verification of the bank account in which the appellant was provided with 30 days to verify and income which neither party acknowledged as not received by the agency.

This appeal is approved to ensure the agency follows the regulatory requirements provides proper notice and time for an applicant to provide information requested by the agency.

Order for MassHealth

Continue to process the July 2023 application for long-term care by issuing requests for information that allow the applicant 90 days to provide information that is not included in August 2023 request for information.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

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

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