

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2400189
Decision Date:	5/3/2024	Hearing Date:	03/12/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sophia Beauport-Lafontant, Charlestown MEC



*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:	Renewal; Proof of Residency
Decision Date:	5/3/2024	Hearing Date:	03/12/2024
MassHealth's Rep.:	Sophia Beauport-Lafontant	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	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 November 2, 2023, MassHealth terminated the Appellant's MassHealth benefits as of November 16, 2023, because she had not provided proof of residency in the time allowed. 130 CMR 502.003(D) and Exhibit 1. The Appellant filed this appeal in a timely manner on January 4, 2024. 130 CMR 610.015(B) and Exhibit 2. Termination of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 502.003(D), in terminating the Appellant's benefits for not providing proof of residency.

Summary of Evidence

The hearing was held telephonically. The Appellant verified her identity and testified that she had called to update MassHealth when she had moved to a different address within the same town. The Appellant testified that she believed that MassHealth had updated this information because she received notices from MassHealth at her current address for nearly a year.

The MassHealth representative testified that MassHealth had two different addresses listed for the Appellant in its two different databases.¹ The MassHealth representative testified that on January 4, 2024, MassHealth received and processed a copy of the Appellant's lease agreement with the [REDACTED] Housing Authority, indicating that the Appellant had been a resident of her current address as of May 11, 2023. Exhibit 2 at 3.²

Findings of Fact

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

1. The Appellant provided MassHealth with her current address. Testimony.
2. The Appellant provided MassHealth with acceptable proof of her Massachusetts residency. Testimony and Exhibit 2 at 3.

Analysis and Conclusions of Law

MassHealth's regulations provide as follows:

502.003: Verification of Eligibility Factors

...

(D) Time Standards. The following time standards apply to the verification of eligibility factors.

(1) The applicant or member has 90 days from the receipt of the Request for Information Notice to provide all requested verifications.

¹ While not the subject of this appeal, the MassHealth representative explained that as the Appellant had turned [REDACTED] before the hearing occurred, she would need to submit a senior application for MassHealth.

² The lease indicates that the Appellant has resided in the same Massachusetts town since at least 2012.

(2) If the applicant or member fails to provide verification of information within 90 days of receipt of the MassHealth agency's request, the MassHealth agency does one of the following.

(a) If the required information is available from electronic data sources, the MassHealth agency uses that information to redetermine eligibility.

(b) If the required information is not available from electronic data sources, MassHealth coverage is denied or terminated except for individuals described at 130 CMR 502.001(D)(1) through (4).

(c) If the required verifications are received within one year from the date of the application or renewal form was received, coverage is reinstated to a date 10 days before the receipt of the verifications.

(d) If the required verifications are not received within one year of receipt of the previous application or renewal form, a new application must be completed.

130 CMR 502.003(D).

503.002: Residence Requirements

As a condition of eligibility, an applicant or member must be a resident of the Commonwealth of Massachusetts.

(A) Unless otherwise specified

(1) individuals 21 years of age and older are residents of the Commonwealth if they are living in the Commonwealth and either

(a) intend to reside in the Commonwealth, with or without a fixed address; or

(b) have entered the Commonwealth with a job commitment or are seeking employment, whether or not they are currently employed; or

(2) individuals 21 years of age and older who are not capable of stating intent as defined in 42 CFR 435.403(c) are residents of the Commonwealth if they are living in the Commonwealth.

(3) For any other non-institutionalized individuals 21 years of age and older not subject to 130 CMR 503.002(A)(1) or (2), their residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the Transitional Assistance to Families with Dependent Children (TAFDC) program.

(B) Unless otherwise specified

(1) individuals younger than 21 years old are residents of the Commonwealth if they are capable of indicating intent and are either married or emancipated from their parents and meet the requirements of 130 CMR 503.002(A)(1); or

(2) individuals younger than 21 years old not described in 130 CMR 503.002(B)(1) are residents of the Commonwealth if they are

(a) living in the Commonwealth, with or without a fixed address; or

(b) living with their parent or caretaker who is a resident of the Commonwealth in accordance with the requirements of 130 CMR 503.002(A)(1).

(C) Individuals of any age who are receiving a state supplementary payment (SSP) are residents of the Commonwealth if the Commonwealth is the state paying the SSP.

(D) Individuals of any age who are receiving federal payments for foster care and adoption assistance under title IV-E of the Social Security Act are residents of the Commonwealth if the Commonwealth is the state where the individuals live.

(E) (1) The individual's residency is considered verified if the individual has attested to Massachusetts residency and the residency has been confirmed by electronic data matching with federal or state agencies or information services.

(2) If residency cannot be verified through electronic data matching or there is conflicting information, the MassHealth agency may require documentation to validate residency.

(F) Acceptable proof of Massachusetts residency includes the following, as well as any other verification allowed as determined by the MassHealth agency:

(1) copy of deed and record of most recent mortgage payment (if mortgage is paid in full, provide a copy of property tax bill from the most recent year);

(2) current utility bill or work order dated within the past 60 days;

(3) statement from a homeless shelter or homeless service provider;

(4) school records (if school is private, additional documentation may be requested);

(5) nursery school or daycare records (if school is private, additional documentation may be requested);

- (6) Section 8 agreement;
- (7) homeowner's insurance agreement;
- (8) proof of enrollment of custodial dependent in public school;
- (9) copy of lease and record of most recent rent payment; or
- (10) affidavit supporting residency signed under pains and penalties of perjury that states the individual is not visiting Massachusetts for personal pleasure or to receive medical care in a setting other than a nursing facility.

(G) Examples of applicants or members who do not meet the residency requirement for MassHealth are

- (1) individuals who came to Massachusetts for the purpose of receiving medical care in a setting other than a nursing facility, and who maintain a residence outside of Massachusetts;
- (2) individuals visiting Massachusetts for personal pleasure, who maintain a residence outside of Massachusetts; and
- (3) individuals whose whereabouts are unknown.

(H) Inmates of penal institutions may not receive MassHealth benefits except under one of the following conditions, if they are otherwise eligible for MassHealth:

- (1) they are inpatients in a medical facility; or
- (2) they are living outside of the penal institution, are on parole, probation, or home release, and are not returning to the institution for overnight stays.

130 CMR 503.002.

Under the MassHealth Fair Hearing Rules at 130 CMR 610.071:

The hearing officer may not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.

130 CMR 610.071(A)(2).

Based on the evidence presented at the hearing and in the record, I find that the Appellant is a resident of Massachusetts and was a resident of Massachusetts at the time MassHealth issued the November 3, 2023, termination notice. I find that the Appellant submitted acceptable proof of her residency under 130 CMR 503.002(F), and that MassHealth had the opportunity to review and respond to the supporting evidence. Exhibit 2 at 3; 130 CMR 610.071(A)(2).

As provided for in 130 CMR 610.071, the effective date of the Appellant's eligibility is based on when all the eligibility conditions were met, not when the supporting evidence was submitted. Accordingly, the Appellant's appeal is approved. 130 CMR 503.002(F); 130 CMR 610.071(A)(2).

Order for MassHealth

Rescind the November 2, 2023, termination notice and reinstate the Appellant's MassHealth benefits. Update MassHealth's records in both databases to reflect that the Appellant lives at [REDACTED]

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.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

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