

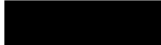
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved, Remanded	Appeal Number:	2400227
Decision Date:	3/22/2024	Hearing Date:	1/29/2024
Hearing Officer:	Patrick Grogan	Record Open to:	2/23/24

Appearance for Appellant:



Appearance for MassHealth:

Irmalyn Hernandez, Taunton

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, Verifications
Decision Date:	3/22/2024	Hearing Date:	1/29/2024
MassHealth's Rep.:	Irmalyn Hernandez	Appellant's Rep.:	
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 December 26, 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 January 3, 2024 (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 is an individual over the age of 65 seeking MassHealth benefits (Long-Term-Care Services in a Nursing Facility). On December 26, 2023, MassHealth determined that the Appellant was not eligible due to missing verifications. (Exhibit 1) The December 26, 2023 Notice lists four items outstanding: income from alimony, an updated level of care screen, and bank statements for a savings account, and bank statements for a checking account. (Exhibit 1). From this determination, the instant appeal follows.

At the Hearing held on January 29, 2024, MassHealth testified that the bank statements had been received on December 19, 2023, and processed in December of 2023. (Testimony) MassHealth confirmed that verifications for income from alimony as well as an updated level of care screen remained outstanding. (Testimony) The Appellant, through the Appeal Representative, requested additional time to produce the missing 2 items. (Testimony). The Record was left open for the Appellant until February 9, 2024, to produce to MassHealth the outstanding verifications for income from alimony as well as an updated level of care screen. (Exhibit 7) The Record was further extended until February 23, 2024 for MassHealth to review the verifications. (Exhibit 7)

On February 7, 2024, the Appellant submitted verifications for income from alimony as well as an updated level of care screen. (Exhibit 8) In response to the submission, on February 22, 2024. MassHealth responded that "MassHealth is still missing these bank statements." (Exhibit 9, pgs. 3-4) In response, on February 27, 2024, an inquiry was posed to MassHealth regarding MassHealth's position that bank statements were outstanding, since MassHealth had testified at the January 29, 2024 Hearing that the missing bank statements had been submitted in December of 2023. (Exhibit 9, pg. 3).

On February 27, 2024, MassHealth responded "Only 2 verifications were provided but we are still missing bank statements." (Exhibit 9, pg.3) A review of the recording of the Hearing revealed that MassHealth had, in fact, testified that the bank statements were received on December 19, 2023, processed in December of 2023, and the only remaining verifications outstanding were for income from alimony as well as an updated level of care screen, which the Appellant had provided on February 7, 2024. A further inquiry was posed to MassHealth seeking confirmation that the bank statements had, in fact, been submitted and processed in December of 2023. (Exhibit 9, pg. 2). No response to the February 27, 2024 inquiry was received from MassHealth.

On February 28, 2024, the Appellant, through the Appeal Representative, responded that all verifications had been submitted. (Exhibit 9, pgs. 1-2) Additionally, the Appeal Representative submitted information that the Appeal Representative stated confirmed the spend down of assets,

supported with updated bank statements¹. (Exhibit 9, pgs. 1-2, Exhibit 10).

On March 5, 2024, inquiry was once again posed to MassHealth, requesting, in part:

can you confirm that you have received the bank statements from December 19, 2023? [The Appeal Representative] included more recent bank statement in the email below. Have you had an opportunity to verify that the Appellant is no longer over assets for MassHealth coverage? Has a new Notice issued to the Appellant?

Based upon the response from [The Appeal Representative], it seems appeal # 2400227, a denial due to outstanding verifications, has now been resolved. Please respond to the questions posed above at your earliest opportunity (Exhibit 9, pg.1)

MassHealth has not responded to the February 27, 2024 inquiry posed after review of the Hearing recording. MassHealth has not responded to the March 5, 2025 inquiry. (Exhibit 9)

Findings of Fact

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

1. The Appellant is an individual over the age of 65 seeking MassHealth benefits (Long-Term-Care Services in a Nursing Facility).
2. On December 26, 2023, MassHealth determined that the Appellant was not eligible due to missing verifications. (Exhibit 1) The December 26, 2023 Notice lists four items outstanding: income from alimony, an updated level of care screen, and bank statements for a savings account, and bank statements for a checking account. (Exhibit 1)
3. At the Hearing held on January 29, 2024, MassHealth testified that the bank statements had been received on December 19, 2023, and processed in December of 2023. (Testimony) MassHealth confirmed that verifications for income from alimony as well as an updated level of care screen remained outstanding. (Testimony)
4. The Record was left open for the Appellant until February 9, 2024, to produce to MassHealth the outstanding verifications for income from alimony as well as an updated level of care screen. (Exhibit 7) The Record was further extended until February 23, 2024 for MassHealth to review the verifications. (Exhibit 7)

¹ Appeal # 2400227 appeals Notice 66082843, dated December 26, 2024, 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.

5. On February 7, 2024, the Appellant submitted verifications for income from alimony as well as an updated level of care screen. (Exhibit 8)
6. In response to the submission, on February 22, 2024. MassHealth responded that “MassHealth is still missing these bank statements.” (Exhibit 9, pgs. 3-4)
7. In response, on February 27, 2024, an inquiry was posed to MassHealth regarding MassHealth’s position that bank statements were outstanding, since MassHealth had testified at the January 29, 2024 Hearing that the missing bank statements had been submitted in December of 2023. (Exhibit 9, pg. 3).
8. On February 27, 2024, MassHealth responded “Only 2 verifications were provided but we are still missing bank statements.” (Exhibit 9, pg.3)
9. A review of the recording of the Hearing revealed that MassHealth had, in fact, testified that the bank statements were received on December 19, 2023, processed in December of 2023, and the only remaining verifications outstanding were for income from alimony as well as an updated level of care screen, which the Appellant had provided on February 7, 2024.
10. A further inquiry was posed to MassHealth seeking confirmation that the bank statements had, in fact, been submitted and processed in December of 2023. (Exhibit 9, pg. 2). No response to the February 27, 2024 inquiry was received from MassHealth
11. On February 28, 2024, the Appellant, through the Appeal Representative, responded that all verifications had been submitted. (Exhibit 9, pgs. 1-2) Additionally, the Appeal Representative submitted information that the Appeal Representative stated confirmed the spend down of assets, supported with updated bank statements². (Exhibit 9, pgs. 1-2, Exhibit 10).
12. On March 5, 2024, inquiry was once again posed to MassHealth, requesting, in part:
can you confirm that you have received the bank statements from December 19, 2023? [The Appeal Representative] included more recent bank statement in the email below. Have you had an opportunity to verify that the Appellant is no longer over assets for MassHealth coverage? Has a new Notice issued to the Appellant?
Based upon the response from [The Appeal Representative], it seems appeal # 2400227, a denial due to outstanding verifications, has now been resolved. Please respond to the questions posed above at your earliest opportunity (Exhibit 9, pg.1)
13. MassHealth has not responded to the February 27, 2024 inquiry posed after review of the Hearing recording. MassHealth has not responded to the March 5, 2025 inquiry. (Exhibit 9)

² See Footnote 1.

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 January 29, 2024, MassHealth testified that the bank statements had been received on December 19, 2023, and processed in December of 2023. (Testimony) MassHealth confirmed that verifications for income from alimony as well as an updated level of care screen remained outstanding. (Testimony) The Appellant, through the Appeal Representative, requested additional time to produce the missing 2 items. (Testimony). The Record was left open for the Appellant until February 9, 2024, to produce to MassHealth the outstanding verifications for income from alimony as well as an updated level of care screen. (Exhibit 7) The Record was further extended until February 23, 2024 for MassHealth to review the verifications. (Exhibit 7)

On February 7, 2024, the Appellant submitted verifications for income from alimony as well as an updated level of care screen. (Exhibit 8) In response to the submission, on February 22, 2024. MassHealth responded that "MassHealth is still missing these bank statements." (Exhibit 9, pgs. 3-4) In response, on February 27, 2024, an inquiry was posed to MassHealth regarding MassHealth's position that bank statements were outstanding, since MassHealth had testified at the January 29, 2024 Hearing that the missing bank statements had been submitted in December of 2023. (Exhibit 9, pg. 3).

On February 27, 2024, MassHealth responded "Only 2 verifications were provided but we are still missing bank statements." (Exhibit 9, pg.3) A review of the recording of the Hearing revealed that MassHealth had, in fact, testified that the bank statements were received on December 19, 2023, processed in December of 2023, and the only remaining verifications outstanding were for income from alimony as well as an updated level of care screen, which the Appellant has provided

on February 7, 2024. A further inquiry was posed to MassHealth seeking confirmation that the bank statements had, in fact, been submitted and processed in December of 2023. (Exhibit 9, pg. 2). No response to the February 27, 2024 inquiry was received from MassHealth.

On February 28, 2024, the Appellant, through the Appeal Representative, responded that all verifications had been submitted. (Exhibit 9, pgs. 1-2) Additionally, the Appeal Representative submitted information that the Appeal Representative stated confirmed the spend down of assets, supported with updated bank statements³. (Exhibit 9, pgs. 1-2, Exhibit 10).

On March 5, 2024, inquiry was once again posed to MassHealth, requesting, in part:

can you confirm that you have received the bank statements from December 19, 2023? [The Appeal Representative] included more recent bank statement in the email below. Have you had an opportunity to verify that the Appellant is no longer over assets for MassHealth coverage? Has a new Notice issued to the Appellant?

Based upon the response from [The Appeal Representative], it seems appeal # 2400227, a denial due to outstanding verifications, has now been resolved. Please respond to the questions posed above at your earliest opportunity (Exhibit 9, pg.1)

MassHealth has not responded to the February 27, 2024 inquiry posed after review of the Hearing recording. MassHealth has not responded to the March 5, 2025 inquiry. (Exhibit 9)

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). MassHealth, however, has not responded to inquiries regarding the conflict in the Testimony provided at Hearing (Testimony) with the responses submitted stating bank statements were outstanding. (Exhibit 9). Moreover, the Appellant has submitted updated bank statements, and MassHealth has not responded to inquiry regarding MassHealth's review of the updated bank statements submitted. (Exhibit 9). Based upon the conflict in the Testimony offered by MassHealth at Hearing, as well as the lack of response from MassHealth to inquiries posed, it is unclear, on this Record, what, if any, determination MassHealth has made. MassHealth's position that bank statements remain outstanding is belied by MassHealth's Testimony at the January 29, 2024 Hearing. Moreover, MassHealth's position regarding missing verifications is further belied by this Record. (Exhibit 8, Exhibit 10). 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. The Appellant has tendered all of the

³ See Footnote 1

enumerated outstanding verifications, as evidenced in this Record. (Exhibit 1, Exhibit 8, Exhibit 10) 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 520.004⁴.

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.

Patrick Grogan
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

⁴ The Appellant retains the right to appeal the new determination of MassHealth, if the Appellant chooses.