

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401588
Decision Date:	3/6/2024	Hearing Date:	03/05/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Daughter/POA

Appearance for MassHealth:
Stephanie Mowles, Quincy 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:	Denied	Issue:	Verification; Long Term Care
Decision Date:	3/6/2024	Hearing Date:	03/05/2024
MassHealth's Rep.:	Stephanie Mowles	Appellant's Rep.:	Daughter/POA
Hearing Location:	Remote	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 19, 2023, MassHealth denied Appellant's application for MassHealth long-term care benefits for failure to provide information needed to decide eligibility (130 CMR 515.008, 516.001 and Exhibit 1). Appellant filed this appeal in a timely manner on January 31, 2024 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth long-term care benefits for failure to provide information needed to decide eligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, 516.001, in denying Appellant's application for long-term care benefits for failure to provide information needed to decide eligibility.

Summary of Evidence

The MassHealth representative testified that on September 11, 2023, a MassHealth long-term care application was submitted on Appellant's behalf. MassHealth issued 3 requests for information on September 15, 2023, September 28, 2023, and November 6, 2023. Each request for information identified outstanding financial verifications which Appellant has since provided to MassHealth. Each request for information also indicated that a status change form (SC-1), and a nursing facility screening notification remained outstanding. On December 19, 2023, MassHealth issued a denial notice because Appellant has not been admitted to a nursing facility, and therefore did not provide to MassHealth a notice of status change form (SC-1), and a nursing facility screening notification. The MassHealth representative testified that no additional documentation is outstanding. An additional notice dated January 4, 2024 issued notifying Appellant that the only documentation that remains outstanding is notification of admission to a facility, and a nursing facility screening notification (Exhibit 5). The MassHealth representative added that when Appellant is admitted to a nursing facility, the facility would be responsible for submitting the missing documentation to MassHealth. MassHealth agreed to preserve the September 11, 2023 application date until June 11, 2024 to allow Appellant to submit an SC-1 form and nursing facility screening notification, after which a new application would be necessary.

Appellant's daughter testified that Appellant has not been admitted to a nursing facility. She added that she has had discussions with several nursing facilities and each was reluctant to admit Appellant with a MassHealth application pending.

Findings of Fact

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

1. On September 11, 2023, a MassHealth long-term care application was submitted on Appellant's behalf.
2. MassHealth issued 3 requests for information on September 15, 2023, September 28, 2023, and November 6, 2023. Each request for information identified outstanding financial verifications which Appellant has since provided to MassHealth. Each request for information also indicated that a status change form (SC-1), and a nursing facility screening notification remained outstanding.
3. On December 19, 2023, MassHealth issued a denial notice because Appellant has not

been admitted to a nursing facility, and therefore did not provide to MassHealth a notice of status change form (SC-1), and a nursing facility screening notification.

4. A notice dated January 4, 2024 issued notifying Appellant that the only documentation that remains outstanding is a notification of admission to a facility form (SC-1), and a nursing facility screening notification.
5. MassHealth agreed to preserve the September 11, 2023 application date until June 11, 2024 to allow Appellant to submit an SC-1 form and nursing facility screening notification, after which a new application would be necessary.

Analysis and Conclusions of Law

Regulation 515.008 states that a MassHealth 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. Regulation 130 CMR 516.001(B) provides that MassHealth may request additional information or documentation, if necessary, to determine eligibility. The request is generally sent to the applicant within 5 days of receipt of the application and provides 30 days to return the needed documents. If the verifications are not submitted within 30 days of the date of the request, MassHealth benefits may be denied (130 CMR 516.001(C)). Thereafter, if one or more of the documents are submitted within 30 days of the denial, the date of receipt shall be the reapplication date (130 CMR 516.002). The following time standards apply to the verification of eligibility factors. (1) The applicant or member has 30 days from the receipt of the Request for Information Notice to provide all requested verifications. (2) If the applicant or member fails to provide verification of information within 30 days of receipt of the MassHealth agency's request, MassHealth coverage is denied or terminated. (3) A new application is required if a reapplication is not received within 30 days of the date of denial (130 CMR 516.003(D)).

On September 11, 2023, a MassHealth long-term care application was submitted on Appellant's behalf. MassHealth issued 3 requests for information on September 15, 2023, September 28, 2023, and November 6, 2023. Each request for information identified outstanding financial verifications which Appellant has since provided to MassHealth. Each request for information indicated that a status change form (SC-1), and a nursing facility screening notification remained outstanding (Exhibit 4). On December 19, 2023, MassHealth issued a denial notice because Appellant has not been admitted to a nursing facility, and therefore did not provide to MassHealth a required status change form (SC-1), and a nursing facility screening notification.¹

¹ See 130 CMR 456.407: Clinical Authorization of Nursing Facility Service:

(A) Clinical authorization for nursing facility services may be for a specified or indefinite length of stay. Authorizations for an indefinite length of stay may be subject to review by the MassHealth agency or its agent to ensure that conditions for payment continue to be met. A clinical authorization is required:

- (1) before the first date of service delivery for which the nursing facility is seeking payment from MassHealth;
- (2) when a member is transferred from one nursing facility to another nursing facility;
- (3) when a member who is hospitalized is to be admitted to a different nursing facility than the one the member resided in before the hospital admission;
- (4) when a member who has been hospitalized for over six months seeks to be readmitted to the nursing facility where the member resided before hospital admission; and
- (5) when a nursing facility determines that a member has discharge potential, or the member may no longer meet the clinical eligibility criteria described in 130 CMR 456.409.

(B) The MassHealth agency notifies nursing facilities, hospitals, physicians or PCPs, and home health agencies of the identity of the agent responsible for authorizing nursing facility services.

(C) The referring medical provider must submit the request for authorization of nursing facility services to the MassHealth agency or its agent on behalf of the member. For persons who become eligible for MassHealth while residing in a nursing facility, the facility itself must submit the request for authorization. The request for authorization of nursing facility services must be submitted on the forms required by the MassHealth agency and must include documentation that available alternatives to institutionalization were considered and were deemed inadequate to meet the member's needs.

(D) If the MassHealth agency determines that a member is eligible for nursing facility services, the MassHealth agency will issue a notice that contains the effective date of coverage.

(E) As a prerequisite for payment, nursing facilities must obtain clinical authorization from the MassHealth agency or its designee for each member or MassHealth applicant for whom the nursing facility provider is seeking MassHealth payment.

(F) Clinical authorization determines the medical necessity of nursing facility services as described in 130 CMR 456.409, in accordance with 130 CMR 450.204: *Medical Necessity*. Approval does not establish or waive any other prerequisites for payment, such as the member's financial eligibility for MassHealth.

(G) As part of the clinical authorization process, MassHealth or its designee must assess the member or MassHealth applicant's need for nursing facility services.

(H) Requests for authorization for nursing facility services must be submitted to MassHealth, or its designee, in the form and format specified by MassHealth or its designee.

(1) A complete authorization request must include all required information, including, but not limited to, documentation of the completed clinical assessment; other nursing, medical, or psychosocial evaluations or assessments; documentation that available alternatives to institutionalization were considered and were deemed inadequate to meet the member's needs; and any other documentation that the MassHealth agency, or its designee, requests in order to complete the review and determination of clinical authorization, including additional assessments of the member.

(2) In making its clinical authorization determination, MassHealth or its designee may require additional assessments of the member or require other necessary information in support of the request for clinical authorization.

See also 130 CMR 456.408: Conditions for Payment:

(A) The MassHealth agency pays for nursing facility services if all of the following conditions are met.

(1) The MassHealth agency or its designee has determined that individuals 22 years of age or older meet the nursing facility services requirements of 130 CMR 456.409 or the multi-disciplinary medical review team coordinated by the Department of Public Health has determined that individuals 21 years of age or younger meet the criteria of 130 CMR 519.006(A): *Eligibility Requirements*.

An additional notice dated January 4, 2024 issued notifying Appellant that the only documentation that remains outstanding is a notification of admission to a facility form (SC-1), and a nursing facility screening notification. Because Appellant has not been admitted to a nursing facility, and therefore has not provided to MassHealth clinical information needed to decide MassHealth long-term care eligibility within allowable timeframes, MassHealth correctly denied the September 11, 2023 application by notice dated December 19, 2023.

The appeal is DENIED.

Order for MassHealth

None, other than preserve the September 11, 2023 application until June 11, 2024.

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.

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- (2) The MassHealth agency or its designee has determined that community care is either not available or not appropriate to meet the individual's needs.
 - (3) The requirements for the pre-admission screening and resident review (PASRR) process in 130 CMR 456.410 and as required by sub-regulatory guidance have been met. Failure to follow applicable PASRR rules will result in denial of MassHealth payments to the nursing facility for MassHealth members during the period of noncompliance pursuant to 42 CFR 483.122.
 - (B) The MassHealth agency pays for nursing facility services beginning with the date of financial eligibility provided that the member shows that they were medically eligible for these services as of the date of financial eligibility. If the member was not medically eligible for nursing facility services as of the first date of financial eligibility, the MassHealth agency will pay for these services beginning on the first date the member is medically eligible, provided that this date is after the first date of financial eligibility. A person may request a determination of medical eligibility at or after application for MassHealth.

See also: Eligibility Operations Memo 23-16, July 2023: "A clinical assessment must be done to determine the length of stay of an applicant of member who needs nursing facility services. ... MECs (MassHealth Enrollment Centers) must receive the clinical eligibility determination notification before they can approve an applicant for nursing facility services. Eligibility for nursing facility service payments cannot begin before the approval date of clinical eligibility listed in the box marked "Official Use Only."

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street,
6th Floor, Quincy, MA 02171