

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2401836
<b>Decision Date:</b>	3/21/2024	<b>Hearing Date:</b>	03/07/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	03/22/2023

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Geraldine Eliscard

**Interpreter:**



*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>	Approved	<b>Issue:</b>	Eligibility; Under 65
<b>Decision Date:</b>	3/21/2024	<b>Hearing Date:</b>	03/07/2024
<b>MassHealth's Rep.:</b>	Geraldine Eliscard	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 December 26, 2023, MassHealth notified the appellant that she, her spouse, and her daughter were not eligible for MassHealth as they did not provide the information necessary to determine eligibility in the time allowed. (130 CMR 502.003; Exhibits 1A, 1B and 1C). The appellant and her spouse appealed all three decisions in a timely manner on January 23, 2024. (130 CMR 610.015; Exhibits 2A, 2B and 2C). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant, her spouse, and her daughter were not eligible for MassHealth as they did not provide MassHealth with the information necessary to determine eligibility within the time allowed. (130 CMR 502.003).

### Issue

Whether MassHealth was correct in determining that the appellant, her spouse, and her daughter were not eligible for failure to provide information necessary to determine eligibility in the time allowed.

## Summary of Evidence

The appellant, her spouse and her daughter are all under the age of [REDACTED]. At the beginning of the hearing, the other parties authorized the appellant to serve as their appeal representative. MassHealth sent the parties a request for information seeking verification of income, citizenship and/or immigration status. The information was due on or before December 11, 2023. MassHealth did not receive the information so issued notices ending coverage as of January 9, 2024. In February 2024, MassHealth received information from the appellant, but the income statement did not indicate who received the income and the other documents were illegible. The appellant sent the same documents to the Board of Hearings, but they were also incomplete and illegible. (Exhibit 4).

At hearing, the appellant stated that her family incurred medical expenses between the coverage end date and the day of the hearing. The appellant did not have a continuation of benefits during the appeal as she did not file the appeal prior to the termination date or within 10 days of the notice. The appellant was seeking coverage back to the termination date of January 9, 2024 to possibly cover the incurred medical expenses.

The record was held open to provide the appellant with the opportunity to submit records that were complete and legible. (Exhibit 5). During the record open period, the appellant provided complete documents that the agency and the Board of Hearings could view clearly. (Exhibit 6). Upon receipt of the documents, the MassHealth representative determined the appellant and her daughter eligible for MassHealth Standard as of March 4, 2024 and her husband eligible for MassHealth Limited as of the same date. (Exhibit 7). The appellant did not dispute the coverage type for each family member. (Exhibit 7). The MassHealth representative stated that she could only approve coverage 10 days prior to the agency's receipt of information and asked the Board of Hearings to issue a decision to approve retroactive coverage to January 9, 2024. (Exhibit 7).

## Findings of Fact

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

1. The appellant, her spouse and her daughter are all under the age of [REDACTED]
2. MassHealth issued the appellant a request for information with information due on or before December 11, 2023.
3. On December 26, 2023, MassHealth issued notices to inform the appellant, her spouse and her daughter that their coverage was ending as of January 9, 2024.

4. From the date of the coverage ending to the time of the hearing, the appellant incurred medical expenses.
5. The appellant provided information to MassHealth and the Board of Hearings prior to the hearing date.
6. The documents provided were illegible.
7. During the course of the appeal, the appellant provided legible documents for MassHealth to consider in determining eligibility.
8. MassHealth determined the appellant and her daughter eligible for MassHealth Standard as of March 4, 2023, 10 days prior to the receipt of information during the appeal process.
9. MassHealth determined the appellant's spouse eligible for MassHealth Limited as of March 4, 2024, 10 days prior to the receipt of information during the appeal process.

## **Analysis and Conclusions of Law**

MassHealth requires verification of eligibility factors including income, residency, citizenship, immigration status, and identity. (130 CMR 502.003). MassHealth initiates information matches with other agencies and information sources as described at 130 CMR 502.004. (130 CMR 502.003). If electronic data sources are unable to verify or are not reasonably compatible with the attested information, additional documentation will be required from the individual. (130 CMR 502.003(B)).

If additional documentation is required, including corroborative information as described at 130 CMR 502.001(B), a Request for Information Notice will be sent to the applicant listing all requested verifications and the deadline for submission of the requested verifications. (130 CMR 502.003(C)). An applicant or member has 90 days from the receipt of the Request for Information Notice to provide all requested verifications. (130 CMR 502.003(D)(1)).

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

- (a) If the required information is available from electronic data sources, MassHealth 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)).

In this case, the agency took the proper steps to request information, the appellant did not provide the information within the 90-day period, resulting in the agency terminating coverage. That decision was correct. (130 CMR 502.003(D)). During the course of the appeal, the appellant provided the required verifications.

The regulations governing the fair hearing process state that the effective date of any adjustments to a member's eligibility is the date on which all eligibility conditions are met, regardless of when the supporting evidence was submitted. (130 CMR 610.071(A)(2)). As the appellant presented the required verifications during the course of the appeal, the effective date of the adjustment is the date in which the information was due, December 11, 2023. Therefore, MassHealth should approve coverage back to the date of termination, January 9, 2024 rather than the date in March noted by the MassHealth representative during the record open period.

This appeal is approved.

It was noted during the record open period that the MassHealth representative felt it was necessary for the Board of Hearings to issue a decision regarding the start date of coverage as the agency could only provide coverage 10 days prior to the date of the receipt, despite the information being submitted during an appeal. While the rules regarding the effective date of adjustments fall under the regulations regarding the fair hearing process, the agency issued a policy regarding hearing resolution in which the agency would work with members to resolve matters at issue during an appeal. (Eligibility Operations Memo 23-27).

The pre-hearing resolution process went into effect on October 1, 2023 to provide members and applicants the opportunity to resolve the appeal without a formal hearing. Such action would likely incorporate the whole appeal, including the consideration of information provided by a member to see if it is sufficient to resolve the matter at issue. In this case, during the appeal, the appellant provided information sufficient to resolve the matter at issue. However, the subsequent agency action was to approve coverage as if the information was presented outside of the hearing process. This action does not appear to comply with the intent of this resolution process. While this is not the basis of this decision, it is something for the agency to consider in implementing this process.

## **Order for MassHealth**

Rescind the notice on appeal and determine the appellant and her daughter eligible for MassHealth Standard as of January 9, 2024 and her husband eligible for MassHealth Limited as of January 9, 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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

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