

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied-in-part; Dismissed-in-part	<b>Appeal Number:</b>	2401924
<b>Decision Date:</b>	05/28/2024	<b>Hearing Date:</b>	03/25/2024
<b>Hearing Officer:</b>	Casey Groff, Esq.		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Stephanie Desousa, Taunton 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

<b>Appeal Decision:</b>	Denied-in-part; Dismissed-in-part	<b>Issue:</b>	Eligibility; LTC; Start Date
<b>Decision Date:</b>	05/28/2024	<b>Hearing Date:</b>	03/25/2024
<b>MassHealth's Rep.:</b>	Stephanie Desousa	<b>Appellant's Rep.:</b>	Guardian
<b>Hearing Location:</b>	Board of Hearings (Remote)	<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 1/17/24, MassHealth approved Appellant for MassHealth long-term-care (LTC) benefits with a coverage start date of 4/1/23, which was subsequently adjusted to an earlier start date of 1/1/23. See Exhibit 1. On 2/7/24, Appellant filed a timely appeal of the 1/17/24 notice to dispute the start date despite the earlier adjustment. See Exhibit 2; 130 CMR 610.015(B)(1). Challenging the scope of benefits is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved Appellant for MassHealth LTC benefits with a start date of 1/1/23.

### Issue

The appeal issue is whether MassHealth was correct in approving Appellant for MassHealth LTC benefits with a coverage start date of 1/1/23.

## Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by telephone and testified as follows: Appellant is over the age of 65 and has resided in a nursing facility since [REDACTED]. See Exh. 7, Attm. D. On 1/3/22, MassHealth received an application on behalf of Appellant seeking long-term-care (LTC) benefits. On 2/22/22, MassHealth denied the application for missing verifications under 130 CMR 515.008. See Exh. 4, p. 7. Appellant did not appeal the 2/22/22 notice. MassHealth did not receive any information on the case following the denial, until 4/11/23, when it received a new LTC application on behalf of Appellant. See Exh. 7, Attm. (b). On 7/27/23, MassHealth received an updated SC-1 from the facility indicating that it was seeking a requested coverage start date of 7/12/22. See Id. at Attm. (d). On 8/14/23, MassHealth denied the 4/11/23 application for missing verifications. On 9/14/23 additional documentation was received, and the case was reactivated on 9/29/23. On 10/5/23, MassHealth issued a request for additional verifications. On 1/17/24, after receiving all outstanding verifications, MassHealth generated an approval notice which listed an effective start date of 4/1/23. The MassHealth representative explained that she was able to honor the application date of 4/11/23, rather than the reapplication date, which allowed her to adjust the coverage start date to 1/1/23. Appellant timely appealed the 1/17/24 notice on 2/7/24.

Appellant's court appointed guardian and appeal representative appeared at the hearing and testified that he was seeking an earlier start date based on the initial application that was filed in January of 2022. The guardian indicated that although he was involved in the case when the initial application was filed, all correspondence at that time went to Appellant and he was not privy of the status of the application. Following the February 2022 denial, he was able to sell Appellant's condominium and use the proceeds to pay the facility through July 11, 2022. With the Covid-19 public health emergency protections in effect, there was confusion as to whether Appellant would still be entitled to an earlier start date. Additionally, he was able to obtain all outstanding verifications, including a pension statement from Canada which took a while to get. Because MassHealth now has all documentation that it sought from the first application, the representative requested that MassHealth honor the initial application date which would allow for a coverage start date of 7/12/22.

In response, the MassHealth representative indicated that MassHealth applied the earliest possible start date based on the 4/11/23 application. Because the initial application had already been denied and was not appealed, MassHealth could not determine eligibility using the earlier application date. She also noted that in looking at a copy of the 2/22/2022 denial, MassHealth did appear to send separate copies of the notice to both Appellant's representative and the nursing facility, as they were listed in the "cc" section.

## Findings of Fact

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

1. On 1/3/22, MassHealth received an application on behalf of Appellant, a nursing facility resident over the age of 65, seeking LTC benefits.
2. On 2/22/22, MassHealth denied the application for missing verifications.
3. Appellant did not appeal the 2/22/22 notice.
4. MassHealth did not receive any information on the case following the denial, until 4/11/23, when it received a new LTC application on behalf of Appellant.
5. After a denial was issued on 8/14/23, the case was re-activated on 9/29/23 upon receiving outstanding verifications.
6. On 1/17/24, after receiving all verifications, MassHealth issued a notice approving Appellant for LTC coverage effective 4/1/23.
7. MassHealth adjusted the coverage start date to 1/1/23 by honoring the 4/11/23 application.
8. On 2/7/24, Appellant filed a timely appeal of the 1/17/24 notice to dispute the start date.

## **Analysis and Conclusions of Law**

At issue in this appeal is whether MassHealth correctly approved Appellant for long-term-care (LTC) benefits, pursuant to its 1/17/24 notice, with an effective start date of 1/1/23.<sup>1</sup> Appellant seeks an earlier start date of 7/11/22 on grounds that he filed a LTC application on 1/3/22 and has since provided all verifications for MassHealth to determine eligibility.

In cases where a new application is submitted following a denial, as Appellant did here, MassHealth will determine the controlling application and coverage start date in accordance with the following regulations:

516.002: Reactivating the Application. The MassHealth agency will reactivate the application after a denial of eligibility for failure to provide requested verifications.

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<sup>1</sup> Although the 1/17/24 notice states that Appellant's LTC coverage was effective 4/1/23, MassHealth testified at hearing that it adjusted his start date to 1/1/23, which, it asserted, was the earliest start date it could authorize based on Appellant's 4/11/23 application.

(A) If the requested information is received within 30 days of the date of denial, the date of receipt of one or more of the verifications is considered the date of reapplication.

(B) The date of reapplication replaces the date of the denied application. The applicant's earliest date of eligibility for MassHealth is based on the date of reapplication.

***(C) If the reapplication is subsequently denied and not appealed, the applicant must submit a new application to pursue eligibility for MassHealth. The earliest date of eligibility is based on the date of the new application.***

....

(E) A new application is required if a reapplication is not received within 30 days from the date of denial.

.....

See 130 CMR § 516.002 (emphasis added).

Once an eligibility determination can be made, MassHealth will determine an applicant's coverage start date, as follows:

(2) ***The begin date of MassHealth Standard, Family Assistance, or Limited coverage may be retroactive to the first day of the third calendar month of application,*** if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided. If more than one application has been submitted and not denied, the begin date will be based on the earliest application that is approved.....

See 130 CMR 516.006(A) (emphasis added).

In review of the evidence and regulatory authority, MassHealth appropriately used Appellant's 4/11/23 application as the controlling application date. The evidence shows that on 2/22/22, MassHealth denied Appellant's 1/3/22 application for failure to submit all requested verifications. See Exh. 4, p. 7. There is no evidence to suggest Appellant appealed the 2/22/22 denial. Nor is there evidence to show that Appellant submitted documentation within 30 days of the denial to reactivate the application. See 130 CMR 515.002(A). MassHealth testified and submitted evidence showing that it did not receive a new application on behalf of Appellant until 4/11/23. See Exh. 7. In accordance with § 516.002(C), above, the earliest date MassHealth can determine eligibility is based on Appellant's 4/11/23 application date. Once it received all verifications, MassHealth approved Appellant for LTC coverage "retroactive to the first day of the third calendar month of [the April] application," which was 1/1/23. See 130 CMR 516.006(A)(2). Appellant has not demonstrated that MassHealth erred in its 1/17/24 coverage determination and subsequent adjustment to a 1/1/23 start date.

The appeal is therefore DENIED with respect to the 1/17/24 notice.

Appellant does not have jurisdiction to appeal the 2/22/22 denial to obtain an earlier coverage start date. To appeal a MassHealth action, the aggrieved party must file an appeal with BOH within 60 days of receiving the written notice in dispute. See 130 CMR 610.015(B)(1). Alternatively, when the dispute involves MassHealth's failure to send written notice of the action, the time limitation on the right of appeal extends 120 days from the date of the action. See 130 CMR 610.015(B)(2)(c). Appellant filed this fair hearing request with the Board of Hearings (BOH) on 2/7/24. Appellant did not timely appeal the 2/22/22 denial within either the 60-day or 120-day periods.

To the extent Appellant seeks to appeal the 2/22/22 notice, the appeal is DISMISSED as untimely. See 130 CMR 610.035(A)(1) (BOH will dismiss a request for a hearing when the request is not received within the time frame specified in 130 CMR 610.015).

## **Order for MassHealth**

None.

## **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.

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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

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