

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

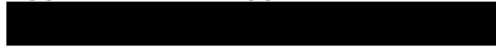
Appeal Number: 2402296

Decision Date: 4/26/2024

Hearing Date: 03/14/2024

Hearing Officer: David Jacobs

Appearances for Appellant:



Appearances for MassHealth:

Linah Kunobwa, MEC Worker



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Verifications
Decision Date:	4/26/2024	Hearing Date:	03/14/2024
MassHealth Rep.:	Linah Kunobwa	Appellant Rep.:	
Hearing Location:	Board of Hearings (Remote)		

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 February 7, 2024, MassHealth notified the appellant that he is not eligible for MassHealth benefits because he did not give MassHealth the information it needs to decide his eligibility within the required time frame (Exhibit 1). The appellant filed a timely appeal on February 14, 2024 (Exhibit 2). The denial of assistance is valid grounds for appeal (130 CMR 610.032(A)).

Action Taken by MassHealth

MassHealth notified the appellant that he is not eligible for MassHealth long-term-care services because he did not give MassHealth the information it needs to decide his eligibility within the required time frame.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth benefits?

Summary of Evidence

The MassHealth representative appeared at the hearing by telephone and testified in summary as follows: The appellant applied for MassHealth benefits on August 17, 2023 with a requested start date of August 18, 2023. The appellant was sent a request for documents on August 28, 2023, which was due on November 26, 2023. The appellant did not respond to this request in full and MassHealth issued a final denial on February 7, 2024. The MassHealth representative stated that they still need a signature page of his MassHealth application and Direct Express statements, as well as pension, bank account, and life insurance statements from his spouse.

The appellant representative appeared at the hearing by telephone. He conceded that the required documents had not been submitted and requested the record to be held open to give him additional time to submit them. The hearing officer agreed, and the record was held open until March 28, 2024 for the appellant to submit documents and April 5, 2024 for MassHealth to review them (Exhibit 5). On March 26, 2024, the appellant representative sent an email stating that he was waiting to receive the required documents and requested for a two-week extension of the open record period (Exhibit 8, pg. 13). The hearing officer agreed, and the record open period was extended to April 10, 2024 for the appellant to submit documents and April 17, 2024 for MassHealth to review them (Exhibit 8, pg. 13). On April 8, 2024, the appellant representative submitted the requested documents except for the Direct Express statements (Exhibit 6). On April 12, 2024, the appellant representative stated that he was unable to request the Direct Express account statements without a subpoena (Exhibit 8, pg. 8). On that same day in response, the hearing officer asked the appellant representative if he was requesting the record open period be extended again (Exhibit 8, pg. 8). The appellant representative did not send a response until April 17, 2024, where he just reiterated that he needed a subpoena to retrieve the final documents (Exhibit 8, pg. 4). In the meantime, the hearing officer had extended the record open period to April 22, 2024 for MassHealth to review the request, as the MassHealth worker was unavailable at the time (Exhibit 8, pg. 7). On April 23, 2024, MassHealth confirmed that all documents except for the Direct Express account statements had been received, but declined to send a subpoena for the Direct Express statements as MassHealth has no special provisions to do so (Exhibit 8, pgs. 2 and 3). On April 24, 2024, the hearing officer also declined to issue a subpoena on behalf of the Board of Hearings as the initial request came on April 12, 2024, two days after the record closed on April 10, 2024, and the appellant representative had not responded to the hearing officer's question if he wanted to extend the record open period again (Exhibit 8, pg. 1).

Findings of Fact

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

1. On August 17, 2023, the appellant applied for MassHealth benefits.

2. On February 7, 2024, the appellant was denied because he did not supply MassHealth with the necessary verification documents.
3. MassHealth required that the appellant submit the signature page of his MassHealth application and Direct Express statements, and from his spouse, pension, bank account, and life insurance statements.
4. The record was left open until March 28, 2024 for the appellant representative to submit the requested documents and April 5, 2024 for MassHealth to review them.
5. On March 26, 2024, the record open period was extended to April 10, 2024 for the appellant representative to submit documents and to April 17, 2024 for MassHealth to review them.
6. On April 8, 2024, the appellant submitted the requested documents except for the Direct Express statements.
7. On April 12, 2024, the appellant stated that a subpoena would be necessary to request the required Direct Express statements.
8. On April 12, 2024, the hearing officer asked the appellant representative if he wanted to extend the record open period again and received no response.
9. On April 17, 2024, due the MassHealth's worker absence, the record open period was extended to April 22, 2024 for the MassHealth worker to review the submitted documents and the appellant representative's statements about a subpoena.
10. On April 23, 2024, the MassHealth worker confirmed that all documents except the Direct Express statements were submitted, but rejected the appellant representative's request for a subpoena as MassHealth gives workers no special provisions to send subpoenas.
11. On April 24, 2024, the hearing officer rejected the appellant representative's request for a subpoena as no request for an extension of the record open period was made and subpoena request itself was made outside the record open period.

Analysis and Conclusions of Law

At issue in this case is MassHealth's determination that the appellant is not eligible for coverage because he has not provided the necessary verification documents (Exhibit 1). The appellant has disputed this determination by requesting a hearing.

Per 130 CMR 501.010(A), an applicant or member must cooperate with the MassHealth agency

in providing information necessary to establish and maintain eligibility. The MassHealth agency may request corroborative information necessary to maintain eligibility, including obtaining or maintaining available health insurance. The applicant or member must supply such information within 60 days of the receipt of the agency's request. If the member does not cooperate, MassHealth benefits may be terminated.

Here, after submissions made by the appellant representative on April 8, 2024, it is uncontroverted that MassHealth is still missing required Direct Express statements (Exhibit 8, pgs. 4 and 7). The appellant representative argues that these statements cannot be requested without a subpoena (Exhibit 8, pgs. 4 and 7). However, the MassHealth worker stated that she does not have the authority to send such a subpoena (Exhibit 8, pg. 2). Furthermore, the hearing officer also declined to issue a subpoena as the request was not timely made (Exhibit 8, pg. 1).

130 CMR 610.004 provides it is entirely within the discretion of the hearing officer whether to allow a record open period. Here, the hearing officer exercised that discretion by holding the record open for the appellant to submit documents to March 28, 2024 and then again to extend it until April 10, 2024 to give more time for document submission (Exhibit 5 and 8, pg. 13). The hearing officer may have considered extending the record open period further, but no request was made by the appellant representative even when directly asked by email on April 12, 2024 (Exhibit 8, pg. 8). Instead, the appellant representative just stated that he required a subpoena to retrieve the final requested documents (Exhibit 8, pg. 4). 130 CMR 610.052(B) gives the hearing officer complete discretion on whether to allow such a subpoena request. Here, the hearing officer exercised his discretion to deny the appellant representative's request because he did not make it while the record was still open by April 10, 2024, neither did he request an extension of the record open period even when directly asked (Exhibit 8, pgs. 7 and 8).

The appellant representative supplied no legal basis for necessitating that MassHealth or the hearing officer grant a request for a subpoena. Therefore, as the record for submitting documents was closed with some of the required documents left unsubmitted, the appellant has not met his obligations under 130 CMR 501.010(A). As such, the appellant has not demonstrated that MassHealth's determination was made in error.

This appeal is DENIED.

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.

David Jacobs
Hearing Officer
Board of Hearings

cc: Charlestown MEC