

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402615
Decision Date:	4/1/2024	Hearing Date:	03/25/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	3/26/2024

Appearance for Appellant:



Appearance for MassHealth:

Patricia Rogers



*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	<b>Issue:</b>	Eligibility; LTC
<b>Decision Date:</b>	4/1/2024	<b>Hearing Date:</b>	03/25/2024
<b>MassHealth's Rep.:</b>	Patricia Rogers	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	All Parties Appeared by Telephone		

### 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 12, 2024, MassHealth denied the appellant's application for long-term care benefits for failure to provide information necessary to determine eligibility within the required time frame. (130 CMR 515.008; Exhibit 1). The appellant filed an appeal in a timely manner on February 21, 2024. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for failure to provide information necessary to determine eligibility within the required time frame.

### Issue

Whether MassHealth was correct in denying the appellant's application for failure to provide information necessary to determine eligibility within the required time frame. (130 CMR 515.008)

## **Summary of Evidence**

All parties appeared by telephone. Documents presented by MassHealth was incorporated into the hearing record as Exhibit 4.

MassHealth received an application for long-term care in October 2023. MassHealth did not receive information about the date in which the appellant was seeking to start coverage. On November 8, 2023, MassHealth sent a request for information seeking information on or before February 6, 2024.

The appellant indicated on the application that he did not have a bank account. The agency requested information on where the appellant's Social Security was being deposited and asked the appellant to provide statements for that account from three months prior to the date of admission through current. MassHealth also requested verification of: transactions over \$1,500; notification of admission to the facility (SC-1 Form); and a nursing facility screening notification. On February 12, 2024, MassHealth issued the notice on appeal denying coverage as the agency did not receive any of the information listed on this request. As of the date of the hearing in March 2024, MassHealth had not received any of the information listed on the request issued in November 2023.

The appellant's request for hearing states that the purpose of the appeal is to "preserve date". On the day of the hearing, the appellant stated that he was not aware of the hearing or the filing of the appeal. The appellant testified that someone at the facility was working with him on the application process. The MassHealth representative testified that a representative from the facility's business office is listed as an Authorized Representative for the appellant. The MassHealth representative testified that copies of the notice on appeal were sent to the appellant as well as the Authorized Representative.

An individual from the business office of the facility came to the hearing and did not dispute the fact that the information was not provided to MassHealth. The MassHealth representative noted that at least two of the documents requested are those that would be provided by the facility, the SC-1 form and screening notification. The representative from the facility stated that they could likely provide the documents necessary to determine eligibility. The record was held open until the close of business on the day of the hearing. Nothing was received by MassHealth or the Board of Hearings. (Exhibit 5).

## **Findings of Fact**

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

1. MassHealth received an application for long-term care in October 2023.

2. MassHealth did not receive information about the date in which the appellant was seeking coverage.
3. On November 8, 2023, MassHealth sent a request for information seeking receipt of information on or before February 6, 2024.
4. On the application, the appellant indicated that he did not have a bank account.
5. The agency requested information on where the appellant's Social Security was being deposited and asked the appellant to provide statements for that account from three months prior to the date of admission through current.
6. MassHealth also asked the appellant for verification of: transactions over \$1,500; notification of admission to the facility; and a nursing facility screening notification.
7. On February 12, 2024, MassHealth denied coverage as the appellant did not submit any of the information listed on the information request.
8. The agency has records of a representative from the facility named as an Authorized Representative.
9. All correspondence from the agency went to the appellant and the Authorized Representative.
10. As of the hearing date, MassHealth had not received information necessary to determine eligibility.
11. As of the end of a record open period, MassHealth had not received information necessary to determine eligibility.

## **Analysis and Conclusions of Law**

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. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 515.008, applicants or members must cooperate with MassHealth in providing information to establish and maintain eligibility and must comply with all of the rules and regulations governing MassHealth, including recovery. MassHealth may request additional information and documentation, if necessary, to determine eligibility. (130 CMR 516.001).

To obtain the necessary information and documentation, MassHealth sends the applicant written notification requesting verifications to corroborate information necessary to determine eligibility, generally within five days of the receipt of the application. (130 CMR 516.001(B)). The notice advises the applicant that the requested verifications must be received within 30 days of the date of the request, and of the consequences of failure to provide the information. (130 CMR 516.001(B)). Under the regulations, if the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied. (130 CMR 516.001(C)). In March 2023, to align timelines for Modified Adjusted Gross Income (MAGI) and non-MAGI populations, MassHealth extended the number of days for non-MAGI members and applicants to send MassHealth verifications and information necessary for an eligibility determination from 30 days to 90 days. (Eligibility Operations Memo 23-09).

In this case, the appellant and the Authorized Representative were provided with the appropriate 90 days to provide the information necessary for the agency to make an eligibility determination. As of the date of the notice on appeal, neither the appellant nor the Authorized Representative provided that information. The Authorized Representative did not dispute the fact that the appellant received proper notices requesting information. (130 CMR 516.001).

The record was held open to give the appellant and the Authorized Representative the opportunity to provide information necessary to determine eligibility. (Exhibit 5). During the record open period, MassHealth did not receive any of the information necessary to determine eligibility.

The Authorized Representative from the facility who appeared at the hearing did not present any testimony or evidence to demonstrate that proactive steps were taken to obtain the information during the application process. Additionally, the parties did not demonstrate that any actions were taken prior to the hearing date. At least two of the documents were those that would be submitted by the facility. Therefore, it is unclear why the documents were not submitted by an Authorized Representative from the facility during the application or hearing process.

The fair hearing process is an administrative, adjudicatory proceeding where dissatisfied applicants, members, and nursing facility residents upon written request, obtain an administrative determination of the appropriateness of certain actions or inactions by the MassHealth agency. (130 CMR 610.012(A)(1)). The hearing process is designed to secure and protect the interests of both the appellant and, as appropriate, the MassHealth agency or its personnel and to ensure equitable treatment for all involved. (130 CMR 610.012(B)). The hearing process is not an

extension of the application process. No one present at the hearing provided testimony or evidence to demonstrate that steps were taken to provide information necessary to determine eligibility.

MassHealth acted within its discretion to deny the appellant's application for long-term care coverage. (130 CMR 516.001(C)). The decision made by MassHealth was correct.

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.

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Susan Burgess-Cox  
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

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