Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2404174
Decision Date:	09/27/2024	**Hearing Date:**	05/01/2024; 08/06/2024
Hearing Officer:	Emily Sabo	**Record Open to:**	05/29/2024

Appearance for Appellant:
[redacted]

Appearances for MassHealth:
Sean Brescia (Day 1) & Alain Michel (Day 2), Tewksbury 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:**	Community Eligibility—Over 65; Assets; Verifications
Decision Date:	09/27/2024	**Hearing Date:**	05/01/2024; 08/06/2024
MassHealth's Reps.:	Sean Brescia; Alain Michel	**Appellant's Rep.:**	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center (Telephone)	**Aid Pending:**	Yes

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 March 3, 2024, MassHealth terminated the Appellant's benefits, effective March 17, 2024, because the Appellant did not provide MassHealth with the information it needed to determine the Appellant's eligibility. 130 CMR 515.008 and Exhibit 1. The Appellant's representative filed this appeal in a timely manner on March 14, 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 terminated the Appellant's benefits, effective March 17, 2024, for not providing MassHealth with the information necessary to determine the Appellant's eligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the Appellant's benefits should be terminated for failing to submit requested information.

Summary of Evidence

The hearing was held by telephone.[1] The MassHealth representative testified that MassHealth was seeking a current document (dated within the past 45 days) showing the cash surrender value of a [redacted] life insurance policy.

The Appellant was represented by his brother, who is also his power of attorney. The Appellant's representative verified the Appellant's identity. The Appellant's representative testified that the Appellant is over the age of 65, has intellectual and developmental disabilities, and lives in a group home. The Appellant's representative testified that the Appellant has been on MassHealth for a long time and that the Appellant does not have assets. The Appellant's representative submitted additional material as part of the hearing record, which included a statement from [redacted] that as of January 14, 2023, the Appellant's policy had a total cash surrender value of $797.29. Exhibit 2 at 3. The Appellant's representative wrote that the Appellant's [redacted] policy was bought by the Appellant's father when the Appellant was a child. *Id.* The Appellant's representative indicated that the Appellant was eligible for SSI Disability. Exhibit 5 at 3.

The record was held open until May 15, 2024, for the Appellant's representative to provide proof (dated within the past 45 days) of the cash surrender value of the [redacted] policy, and until May 29, 2024, for MassHealth to review and respond. Exhibit 6. During the record open period, the Appellant's representative submitted a copy of a policy surrender request, dated May 2, 2024, for the [redacted] policy. Exhibit 9. The MassHealth representative stated that MassHealth could not accept this as proof of the [redacted] current cash surrender value. Exhibit 8.

Findings of Fact

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

1. The Appellant is an adult over the age of 65. Testimony, Exhibit 4.

2. The Appellant has been a MassHealth Standard member since 2004. Exhibit 4.
3. On March 3, 2024, MassHealth notified the Appellant that it would terminate his benefits,

[1] A second hearing day was scheduled on August 6, 2024. Because the Appellant's representative did not appear, all evidence referred to refers to evidence presented on the first hearing date and the record open period.

effective March 17, 2024, for failing to provide a current document showing the cash surrender value of the [redacted] policy. Exhibit 1.

4. On March 14, 2024, the Appellant's representative timely appealed the March 3, 2024, notice. Exhibit 2.

5. As part of the fair hearing request, the Appellant's representative submitted a statement from [redacted] that as of January 14, 2023, the Appellant's policy had a total cash surrender value of $797.29. Exhibit 2.

6. MassHealth did not receive a current statement of the cash surrender value of the Appellant's [redacted] policy. Testimony, Exhibit 8.

Analysis and Conclusions of Law

MassHealth regulations provide:

515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The 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, including recovery and obtaining or maintaining other health insurance.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

130 CMR 515.008.

516.007: Continuing Eligibility

(A) Annual Renewals. The MassHealth agency reviews eligibility once every 12 months. Eligibility may also be reviewed as a result of a member's changes in circumstances or a change

in MassHealth eligibility rules, or as a result of a member's failure to provide verification within requested time frames. The MassHealth agency updates eligibility based on information received as the result of such review. The MassHealth agency reviews eligibility

(1) by information matching with other agencies, health insurance carriers, and information sources;
(2) through a written update of the member's circumstances on a prescribed form;
(3) through an update of the member's circumstances, in person; or
(4) based on information in the member's case file.

(B) Eligibility Determinations. The MassHealth agency determines, as a result of this review, if

(1) the member continues to be eligible for the current coverage type;
(2) the member's current circumstances require a change in coverage type; or
(3) the member is no longer eligible for MassHealth.

(C) Eligibility Reviews. MassHealth reviews eligibility in the following ways.

(1) Automatic Renewal. Households whose continued eligibility can be determined based on electronic data matches with federal and state agencies will have their eligibility automatically renewed.

(a) The MassHealth agency will notify the member if eligibility has been reviewed using the automatic renewal process.

(b) If the member's coverage type changes to a more comprehensive benefit, the start date for the new coverage is determined as described at 130 CMR 516.006.

(2) MassHealth Eligibility Renewal Application. If the individual is residing in the community and his or her continued eligibility cannot be determined based on reliable information contained in his or her account or electronic data match with federal and state agencies, a MassHealth eligibility review form must be completed.

(a) The MassHealth agency will notify the member of the need to complete the MassHealth eligibility review form.

(b) The member will be given 45 days from the date of the request to return the paper MassHealth eligibility review form.

1. If the review is completed within 45 days, eligibility will be determined using the information provided by the individual with verification confirmed through electronic data matches if available.

2. If the review is not completed within 45 days, eligibility will be terminated within 14 days from the date of the termination notice.

3. If the requested review form is submitted within 30 days from the date of the termination, a second eligibility determination is made within 15 days. Eligibility may be established retroactive to the date of termination, if otherwise eligible.

(c) If the member's coverage type changes, the start date for the new coverage type is effective as of the date of the written notice.

(3) Review Form for Individuals in Need of Long-term-care Services in a Nursing Facility. If the individual is in need of long-term-care services in a nursing facility and his or her continued eligibility cannot be determined based on reliable information contained in his or her account or electronic data match with federal and state agencies, a written update of the member's circumstances on a prescribed form must be completed.

(a) The MassHealth agency will notify the member of the need to complete the prescribed review form.

(b) The member will be given 45 days to return the review form to the MassHealth agency.

1. If the review is completed within 45 days, eligibility will be determined using the information provided by the individual with verification confirmed through electronic data matches if available.
2. If the review is not completed within 45 days, eligibility will be terminated within 14 days from the date of the termination notice.
3. If the requested review form is submitted within 30 days from the date of the termination, a second eligibility determination is made within 15 days. Eligibility may be established retroactive to the date of termination, if otherwise eligible.

(c) If the member's coverage type changes, the start date for the new coverage type is effective as of the date of the written notice.

(4) Periodic Data Matches. The MassHealth agency matches files of MassHealth members with other agencies and information sources as described in 130 CMR 516.004 to update or verify eligibility.

(a) If the electronic data match indicates a change in circumstances that would result in potential reduction or termination of benefits, the MassHealth agency will notify the member of the information that was received through the data match and require the member to respond within 30 days of the date of the notice.

1. If the member responds within 30 days and confirms the data is correct, eligibility will be determined using the confirmed data from the electronic data match.
2. If the member responds within 30 days and provides new information, eligibility will be determined using the information provided by the member. Additional verification will be required.
3. If the member does not respond within 30 days, eligibility will be determined using available information received from the electronic data sources. If information necessary for eligibility determination is not available from electronic data sources, MassHealth coverage will be terminated.

> (b) If the electronic data match indicates a change in circumstances that would result in an increase or no change in benefits, the MassHealth agency will automatically update the case using the information received from the electronic data match and redetermine eligibility. If the member's coverage type changes to a more comprehensive benefit, the member will be sent a notice informing him or her of the start date for the new benefit. The effective date of the change is the date of the redetermination of eligibility.

130 CMR 516.007.

By notice dated March 3, 2024, MassHealth terminated the Appellant's benefit for failure to provide a current document showing the cash surrender value for the [redacted] policy. Under 130 CMR 515.008(A), members have the responsibility to cooperate with MassHealth by providing information necessary to establish and maintain eligibility.[2] 130 CMR 515.008(A).

As the Appellant's representative has not provided this information, including during the record open period, MassHealth did not err in issuing the notice. Therefore, the 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

[2] I note for the record my concern that based on the 2023 cash surrender value of the [redacted] policy of $797.29 (Exhibit 2), and that MassHealth had previously determined that the Appellant was categorically, as well as income- and asset-eligible for MassHealth Standard, that the Appellant may still be eligible for the benefit.

receipt of this decision.

Emily Sabo
Hearing Officer
Board of Hearings

cc: [redacted]

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957