

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2404505
Decision Date:	07/18/2024	Hearing Date:	05/28/2024
Hearing Officer:	Alexandra Shube	Record Open to:	07/17/2024

Appearance for Appellant:



Appearance for MassHealth:

Via telephone:

Linah Kunobwa, Charlestown 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:	Approved	Issue:	LTC Eligibility – Verifications; Over 65
Decision Date:	07/18/2024	Hearing Date:	05/28/2024
MassHealth's Rep.:	Linah Kunobwa	Appellant's Rep.:	
Hearing Location:	Charlestown MassHealth Enrollment Center – Remote	Aid Pending:	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 February 28, 2024, MassHealth denied the appellant's application for MassHealth long-term care benefits because the appellant failed to submit all requested information needed to determine the appellant's eligibility within the required time frame (Exhibit 1). The appellant filed this appeal in a timely manner on March 22, 2024, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

The appeal was placed on hold pending the appointment of the conservator. The Board of Hearings received the Decree and Order of Appointment of Conservator on May 8, 2024 and the appeal was scheduled for May 28, 2024.

At the request of the appellant, the record was held open until July 5, 2024 for the appellant's representatives to submit the missing verifications. MassHealth was given until July 19, 2024 to review and respond. On July 17, 2024, the MassHealth representative confirmed with parties via email that no additional documentation was received from the appellant and the record closed.

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for failure to submit requested verifications in a timely manner.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant failed to submit requested verifications in a timely manner.

Summary of Evidence

The representatives for the appellant and MassHealth both appeared at hearing via telephone. The MassHealth representative testified as follows: the appellant is over the age of 65 and a resident of a nursing facility. On August 11, 2023, MassHealth received an application for long-term care benefits on behalf of the appellant with a requested start date of May 23, 2023. On August 22, 2023, MassHealth issued a request for information with a due date of November 11, 2023. The following verifications were requested in that notice: income from other unearned note (send in proof of bank statements where your income is deposited); health insurance (send in front and back of card and current monthly premium bill); personal needs allowance (PNA) account from facility (send in statement from admittance to present with private pay statement); unknown checking account (send in February 2022 to July 2023 bank statements with proof of where all withdrawals of \$1,000 and over went and source of deposits, except for Social Security income); SC-1; and nursing facility screen.

MassHealth did not receive all the requested verifications and, on February 28, 2024, issued a notice informing the appellant that he did not qualify for MassHealth long-term care benefits because he did not provide MassHealth with the information it needed to decide his eligibility within the required time frame. This is the notice under appeal. The notice informed the appellant that the following verifications were still outstanding: PNA account statement from the facility; completed long-term care supplement; and information on three properties in a trust that were recently sold and not reported by the appellant, but found through a data match by MassHealth. As of hearing, MassHealth had the PNA account statement, but still needed a completed long-term care supplement and the following related to the three properties: settlement papers, deed, and tax value of all properties; show where the funds were deposited at the time of the sale; trust documents, including the schedule of beneficiaries, assets in the trust for the past four years, income for the past 72 months, and tax forms, if filed.

The appellant's representatives explained that they cannot get the appellant's daughter, who is his power of attorney, to cooperate and respond to their requests. They have left several voicemails,

as well as sent letters by certified mail. Initially, the business office at the facility was working on the appellant's case, but after it could not get the daughter to respond, it went through its legal team and began the process of appointing a conservator in December 2023. The conservator was appointed on March 14, 2024. The daughter is still not responding, but the appellant's representatives believe she illegally transferred the properties, which were income-earning apartments.

The record was held open until July 5, 2024 for the appellant to submit the outstanding verifications. MassHealth was given until July 19, 2024 to review and respond to the appellant's submission. Parties were instructed at hearing and via email after hearing to get any requests for an extension of the record open period to the hearing officer via email at least one day before the due date. On July 17, 2024, the MassHealth representative informed parties via email that she had not received any documentation from the appellant during the record open period. The appellant's representative from the facility responded that the facility had to hire an attorney because the conservator was having trouble getting a response from the appellant's daughter, who is the trustee of his trust. She stated she would have the attorney write an update and fax it to the Board of Hearings; however, as the record open had closed for the appellant on July 5, 2024 and there was no timely request for an extension, this hearing officer informed parties that the record was closed.

Findings of Fact

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

1. The appellant is over the age of 65 and is a resident of a nursing facility (Testimony and Exhibit 4).
2. On August 11, 2023, MassHealth received an application for long-term care benefits on behalf of the appellant with a requested start date of May 23, 2023 (Testimony and Exhibit 4).
3. On August 22, 2023, MassHealth issued a request for information with a due date of November 11, 2023 (Testimony and Exhibit 4).
4. MassHealth did not receive all the requested verifications and, on February 28, 2024, issued a denial notice for failure to provide all requested verifications within the required time frame. This is the notice under appeal. (Testimony and Exhibit 1).
5. As of the hearing date, MassHealth still needed a completed long-term care supplement and the following related to three properties that were in a trust and sold: settlement papers, deed, and tax value of all properties; show where the funds were deposited at the time of

the sale; trust documents, including the schedule of beneficiaries, assets in the trust for the past four years, income for the past 72 months, and tax forms, if filed (Testimony and Exhibit 4).

6. These documents were not requested in the August 22, 2023 request for information (Exhibit 4).
7. The record was held open until July 5, 2024 for the appellant to submit the outstanding verifications. MassHealth was given until July 19, 2024 to review and respond to the appellant's submission. (Exhibit 5).
8. Parties were instructed at hearing and via email after hearing to get any requests for an extension of the record open period to the hearing officer via email at least one day before the due date (Exhibit 5).
9. On July 17, 2024, the MassHealth representative informed parties that she had not received any documentation from the appellant during the record open period (Exhibit 6).
10. On July 17, 2024, the appellant's representative from the facility responded that the conservator had trouble reaching the appellant's daughter and the facility had to hire an attorney (Exhibit 6).
11. The appellant did not submit any documentation during the record open period and did not submit a timely request for an extension of the record open period. As such, the record closed on July 17, 2024. (Exhibit 6).
12. The following verifications listed on the February 28, 2024 denial notice, but not in the August 22, 2023 request for information, are still outstanding: completed long-term care supplement and information on the trust and sold properties.

Analysis and Conclusions of Law

Pursuant to 130 CMR 515.008(A), an "applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility..." After receiving an application for MassHealth benefits, MassHealth proceeds as follows:

The MassHealth agency requests all corroborative information necessary to determine eligibility.

- (1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of receipt of the application.

(2) The notice advises the applicant that the requested information 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)). “If the requested information...is received [by MassHealth] within 30 days of the date of the request, the application is considered complete....If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.” (130 CMR 516.001(C).)

Pursuant to 130 CMR 516.003(C), if additional documentation is required, including corroborative information as described at 130 CMR 516.001(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.

On February 28, 2024, MassHealth denied the appellant’s application for failure to submit all requested information needed to determine the appellant’s eligibility within the required time frame. In that notice, MassHealth stated that the PNA account, completed long-term care supplement, and information on three properties sold from a trust were not submitted in time. Of those three verifications, only the PNA had been requested in the August 22, 2023 request for information. The properties were not reported to MassHealth and were discovered through a data match. By the time of hearing, MassHealth had received the PNA account statement and only the completed long-term care supplement and verifications on the three properties and trust remained outstanding. Those were new requests not included in the original August 22, 2023 request for information. Pursuant to 130 CMR 516.003(C), MassHealth should have issued a new request for information listing all requested verifications and the deadline for submission of the requested verifications.

By the close of the record open period, MassHealth had not received those verifications; however, all verifications requested in the August 22, 2023 request for information have been received. The original application date should be preserved and MassHealth must issue a new request for information.

For these reasons, the appeal is approved.

Order for MassHealth

Preserve the original August 11, 2023 application date and issue a new request for information.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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