

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2404657
Decision Date:	7/16/2024	Hearing Date:	04/09/2024
Hearing Officer:	Casey Groff, Esq.	Record Closed:	06/21/2024

Appearance for Appellant:




Appearance for MassHealth:

Lynn Bloomquist, Tewksbury MassHealth Enrollment Center (MEC)
Kim McAvinchey, Tewksbury MEC (Post-Hearing)



*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:	Eligibility; LTC; Verifications
Decision Date:	7/16/2024	Hearing Date:	04/09/2024
MassHealth's Rep.:	Kim McAvinchey; Lynn Bloomquist	Appellant's Rep.:	
Hearing Location:	Board of Hearings, 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 3/18/24, MassHealth denied Appellant's application for MassHealth long-term care (LTC) benefits on the basis that she did not provide requested verifications to determine eligibility within the required time frame. See Exhibit 1 and 130 CMR 515.008. Appellant, through her court-appointed Conservator, filed this appeal in a timely manner on 3/25/24. See 130 CMR 610.015(B) and Exhibit 1. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032. A hearing took place on 4/9/24. See Exh. 2. Following the hearing, the record remained open until 6/21/24 to allow Appellant to submit additional evidence and for each party to respond. See Exhs. 3-8.

Action Taken by MassHealth

MassHealth denied Appellant's application for LTC benefits for failure to provide requested verifications within the required time frame.

Issue

The appeal issue is whether MassHealth erred in denying Appellant's application for LTC benefits based on its determination that Appellant failed to verify her eligibility for assistance within the required timeframe.

Summary of Evidence

A MassHealth representative appeared at the hearing via telephone and testified as follows: On 6/21/23, MassHealth received an application, sent on behalf of Appellant, seeking coverage of long-term care (LTC) services with a benefit start date of 02/25/23. On 7/7/23, MassHealth sent Appellant its first request for information (RFI) listing the necessary verifications that Appellant needed to submit in order for MassHealth to determine her eligibility for benefits. On 11/9/23, MassHealth denied the application for failure to submit the requested verifications within the timeline specified under the RFI. Appellant appealed the 11/9/23 denial, thereby preserving the 6/21/23 application date. Following the denial, Appellant submitted partial verification productions, prompting additional RFI's to issue on 12/13/23 and 1/26/24. On 3/18/24, MassHealth again denied Appellant's LTC application for failure to submit all verifications within a timely manner under 130 CMR 515.008. See Exh. 1, pp. 2-4. The denial notice included a list of all requested verifications that remained outstanding. Id.

At hearing, the MassHealth representative testified that MassHealth had not received any of the missing verifications since the 3/18/24 denial, which, she explained, consisted of the following:

- Revised LTC application pages 13 and 14: In her LTC application, Appellant, through checking the "yes" box, affirmed that she had both an annuity (p. 13) and an assisted living facility deposit (p. 14). MassHealth therefore sought verification of these income sources/resources, or, if error, to revise the answers to "no."
- Verification of deposits and disbursements from [REDACTED] checking account [REDACTED] (hereinafter [REDACTED]): MassHealth explained that Appellant sent the underlying bank statements for this account in its 9/29/23 submission; however, she had not provided "proof of the source of all deposits of any amount and to explain/send proof for all disbursements of \$1,000 and over and any recurring payments/withdrawals" as instructed in the RFI. Examples of transactions that needed further verification included, but were not limited to, a \$110 deposit on 1/25/23, a \$1,280 disbursement on 5/5/23, and a \$1,403 disbursement on 5/8/23.

- Revised LTC application page 12 – In the application(s), Appellant answered “no” in response to the question of whether the applicant and/or spouse had any retirement accounts, including IRAs, and/or closed accounts (owned jointly or separately) that were closed within the past 60 months. MassHealth records verified Appellant had an ownership interest in at least three *additional* [REDACTED] accounts, a separate account held through a different banking institution, and an IRA. MassHealth instructed Appellant to revise the answers to “yes,” and to follow verification instructions regarding these additional accounts (i.e., statements of account balances and activity with verification of the source of deposits and disbursements of \$1,000 and over).
- Real Estate – Appellant provided MassHealth information indicating she did not intend to return to her Massachusetts home where her brother continued to reside. Pursuant to this information, MassHealth sought verification of the brother’s address, specifically to determine if he resided in the home since 2022.
- Nursing facility payments: MassHealth requested an updated nursing facility statement reflecting the total payments Appellant has made for room and board with the corresponding dates of service.
- Personal needs allowance (PNA) account information: Appellant previously sent PNA statements which reflected that the account opened 3/2/24, but account activity is only shown from 9/20/23 to present. MassHealth needed statements for all activity from date opened through 9/20/23.

Two representatives from Spooner Guardianship Services, LLC, appeared at the hearing on behalf of Appellant (collectively “Appellant’s representatives”), one of which was Appellant’s court-appointed Conservator. Appellant’s representatives requested additional time to obtain the missing verifications, and addressed the status of such items as follows:

Regarding the application revisions, Appellant’s representatives explained that the initial application was filed by the nursing facility, which is why portions needed corrections and/or further information, and that they would make efforts to get this correct information to MassHealth.

With respect to the home, Appellant’s representatives rejected MassHealth’s position and asserted that a physician certified that Appellant did, in fact, intend to return home, which should render the home non-countable and eliminate the need for further verifications. Additionally, Appellant’s brother is now in a nursing facility and no longer resides in the home. The representatives confirmed they would submit an affidavit to this effect.

Regarding proof of the [REDACTED] bank account transactions, Appellant's representatives testified they would submit verification of the \$1,280 and \$1,403 disbursements, which they believed were either mortgage payments or transfers made when closing the account. The Conservator explained she would try to verify the source of the \$110 deposit, noting this information can be difficult to obtain depending on deposit method. They testified that they were not aware of transactions, in addition to those identified, that would need further verification. Appellant's representative asserted they would also submit bank statements for Appellant's conservatorship account.

The representatives testified that PNA account was opened in September 2023, which is why the statements do not reflect prior activity, but that they could submit something from the facility in writing to confirm this, along with the updated room and board statement.

Appellant was granted additional time following the hearing, "to provide the remaining verifications, i.e., all items listed in MassHealth denial notice dated 3/18/24 and as discussed at hearing, including but not limited to: revised application pages identifying all account/resource information, proof brother does not reside at Appellant's primary residence; PNA account opening and/or verification that no PNA account activity occurred before 9/20/23; and an updated facility room/board letter. See Exh. 3. Initially, Appellant was given until 4/23/24 to submit all remaining verifications. Id. On 5/9/24, MassHealth, in accordance with its prescribed response deadline, advised that it had not received additional documents since the hearing. See Exh 4. Later that day, Appellant's representative submitted revised application pages #13 and #14. See Exh. 4 and Exh. 5. Appellant's representatives stated they also intended to submit copies of the [REDACTED] checks," but that, "[regarding] the home, there is no information to provide [MassHealth]." See Exh. 4. MassHealth responded that no further verification on the home was needed if not being transferred to the brother and would be countable to Appellant. See id. MassHealth noted, however, that the revised application pages and the anticipated bank checks would not satisfy the verification process, as there remained additional outstanding verifications. See Exhs. 6 and 7. Through an extension of the record open period, Appellant sought further clarification from MassHealth on what it needed from Appellant. See Exhs. 6-8. After several exchanges, MassHealth directed Appellant to refer to the list of missing items presented at hearing; and asserted its opposition to any further extensions given that Appellant had nearly a year to produce the requested items.¹ See Exhs 7-8.

Findings of Fact

¹ As Appellant did not make an express request for an extension at this time, the hearing record closed and the matter was taken under advisement.

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

1. On 6/21/23, MassHealth received an application, sent on behalf of Appellant, seeking coverage of LTC services with a benefit start date of 02/25/23.
2. On 7/7/23, MassHealth sent Appellant its first RFI, listing the necessary verifications that Appellant needed to submit in order for MassHealth to determine her eligibility.
3. MassHealth issued additional RFI's to Appellant on 12/13/23 and 1/26/24.
4. On 3/18/24, MassHealth denied Appellant's LTC application for failure to submit all verifications within a timely manner under 130 CMR 515.008.
5. The 3/18/24 denial notice listed the missing verifications, which included: revisions to application pages 13 and 14; revisions to application page 12 related to Appellant's ownership in the four (4) additional bank accounts and an IRA account identified by MassHealth; verification of any/all such additional accounts; verification of deposits and disbarments from the [REDACTED] account; verification of brother's residency if living in Appellant's home; updated nursing facility room and board statement; and completed PNA statements for account activity prior to 9/20/23.
6. As of the hearing on 4/9/24, none of the requested items were received.
7. Following the hearing, the record remained open until 6/21/24 to give Appellant additional time to obtain and submit the outstanding verifications and for MassHealth to respond.
8. During the record open period, the only verifications that Appellant submitted into evidence were revised application pages 13 and 14.

Analysis and Conclusions of Law

This appeal concerns whether MassHealth appropriately denied Appellant's application for long-term care (LTC) benefits based on its determination that Appellant failed to submit necessary verifications in a timely manner. Once an application is received, MassHealth requests all corroborative information necessary to determine the individual's eligibility, including information relating to income, assets, residency, citizenship, immigration status, and identity. See 130 CMR 516.001; see also 130 CMR 516.003 (listing eligibility factors that require verification). To establish eligibility for LTC benefits, individuals, such as Appellant, *must* verify that: (1) their assets do not exceed \$2,000, *and* (2) they have not made any disqualifying transfers

of resources (i.e. transfers for less than fair market value) within the last five years.² See 130 CMR 519.006(A), see also 130 CMR §§ 520.018, 520.019.

Pursuant to 130 CMR 516.003, MassHealth notifies the applicant of the specific information that is needed to establish eligibility through the following process:

(C) Request for Information Notice. 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.

(D) Time Standards. The following time standards apply to the verification of eligibility factors.

- (1) The applicant or member has 30 days from the receipt of the Request for Information Notice to provide all requested verifications.
- (2) If the applicant or member fails to provide verification of information within 30 days of receipt of the MassHealth agency's request, MassHealth coverage is denied or terminated.
- (3) A new application is required if a reapplication is not received within 30 days of the date of denial.

On April 1, 2023, MassHealth extended the time limit for producing verifications from 30-days to 90-days. See Eligibility Operations Memo 23-09 (March 2023).

It is the responsibility of the applicant or member to “cooperate with MassHealth in providing information necessary to establish eligibility... and to comply with all the rules and regulations of MassHealth.” See 130 CMR 515.008.

In the present case, Appellant applied for MassHealth LTC benefits on 6/21/23. Pursuant to the verification process outlined above, MassHealth issued multiple requests for information (RFIs) listing the documentation that Appellant needed to provide to MassHealth within the regulatory time limits. On 3/18/24, MassHealth denied Appellant's LTC application for the second time, because it had not received the requested verifications to determine eligibility. See Exh. 1 and 130 CMR 515.008. The 3/18/24 denial notice listed the verifications that remained outstanding which included, but were not limited to: revised application pages #13 and #14; revised application page #12 regarding Appellant's ownership in the identified bank accounts and IRA; the source of deposit(s) and verifications of disbursements over \$1,000 from Appellant's [REDACTED] account; proof of the brother's residency; PNA account activity from account opening; and an updated facility room/board letter. See Exh. 3.

² Under MassHealth's financial eligibility regulations, an applicant who is “otherwise eligible” may incur a period of disqualification if their asset history reveals that they (or their spouse) transferred resources for less than fair market value. See 130 CMR §§ 520.018, 520.019.

As of the hearing on 4/9/24, all items listed in the denial remained outstanding. Appellant was granted additional time, post-hearing, to submit the missing verifications through the fair hearing process. See Exh. 3. Despite the additional time, Appellant only produced revised application pages #13 and #14. See Exh. 5. As of the record close date, there was no evidence to show that Appellant satisfied MassHealth's request to revise application page #12 regarding Appellant's ownership of the additional four (4) bank accounts and IRA identified by MassHealth. Nor was there evidence to show Appellant sent proof of the disbursements and deposit sources from the [REDACTED] account or updated nursing facility information (i.e., PNA account activity and room and board payments). Moreover, Appellant did not provide any explanation to justify the absence of these verifications, e.g., inability to obtain information despite numerous efforts, nor did Appellant raise any substantive argument that the requested items were not necessary for MassHealth to render an eligibility determination. Absent this information, Appellant has not demonstrated that MassHealth erred in denying Appellant's request for MassHealth LTC benefits in accordance with 130 CMR 515.008 and 130 CMR 516.001(C).

Based on the foregoing, 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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc: [REDACTED]

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