

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed Denied	Appeal Number:	2404691
Decision Date:	07/23/2024	Hearing Date:	04/30/2024
Hearing Officer:	Scott Bernard	Record Open to:	05/30/2024 for appellant; 06/06/2024 for MassHealth

Appearance for Appellant:



Appearance for MassHealth:

Yous Khieu (Charlestown MEC) *via* telephone



*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:	Dismissed Denied	Issue:	Over 65; Senior Buy In approval
Decision Date:	07/23/2024	Hearing Date:	04/30/2024
MassHealth's Rep.:	Yous Khieu	Appellant's Rep.:	
Hearing Location:	Charlestown MassHealth Enrollment Center	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 March 2, 2024, MassHealth notified the appellant that he is eligible for Senior Buy-In effective May 1, 2023 (Exhibit (Ex.) 1, pp. 2-4). The appellant filed this appeal in a timely manner on March 25, 2024. (See 130 CMR 610.015(B) and Ex. 1, p. 5). Determinations regarding the scope or amount of MassHealth assistance are valid grounds for appeal. (130 CMR 610.032).

At the conclusion of the hearing, and at the appellant's representative's request, the record was left open until May 30, 2024 for the appellant's representative to submit further information, and until June 6, 2024 for MassHealth to respond. (Ex. 6). On June 4, 2024, MassHealth informed the hearing officer by email that they had not received any further information from the appellant's representative, at which point the record closed. (Ex. 7).

Action Taken by MassHealth

MassHealth approved the appellant for Senior Buy-In.

Issue

Whether the appellant was eligible for the Senior Buy-In or whether the appellant is eligible for more comprehensive MassHealth coverage.

Summary of Evidence

The hearing was attended telephonically by an eligibility worker from the Charlestown MassHealth Enrollment Center (MEC) who represented MassHealth (the MassHealth representative), and the appellant was represented by his authorized representative (the appellant's representative).

The MassHealth representative testified to the following. The appellant is over 65 and lives in a one person household. (Testimony). The appellant applied for Long Term Care (LTC) services on June 2, 2023. (Testimony; Ex. 4, p. 19). The appellant was admitted to the nursing facility on August 25, 2023 and had requested a coverage start date of August 28, 2023. (Testimony; Ex. 4, p. 18). On September 12, 2023, MassHealth issued a notice approving the appellant for the Senior Buy-In beginning May 1, 2023, and denying the request for LTC because the appellant had excess assets. (Testimony; Ex. 4, pp. 1-8).

The appellant timely filed an appeal of the September 12, 2023 notice on October 12, 2023 and a hearing was held on November 14, 2023. (Testimony; Ex. 4, pp. 11-17). At the conclusion of the hearing, the hearing officer for that appeal held the record open until December 19, 2023 to, among other things, give the appellant an opportunity to lower his excess assets. (Testimony; Ex. 4, pp. 11-17). Nothing further was received and the hearing officer issued a decision denying the appeal of the denial for LTC benefits on January 4, 2024. (Testimony; Ex. 4, pp. 11-17).

Subsequent to the appeal decision, MassHealth issued the notice under appeal on March 2, 2024, again approving the appellant for the Senior Buy-In effective May 1, 2023 (Testimony; Ex. 1, pp. 2-4; Ex. 4, pp. 1-2). The approval for Senior Buy-In noted that the appellant's countable assets still exceeded the \$2,000 asset limit for MassHealth Standard coverage. (Testimony; Ex. 1, pp. 2-4; Ex. 4, pp. 1-2). The MassHealth representative stated that on March 21, 2024, MassHealth sent the appellant a request for information with a due date of June 19, 2024. (Testimony; Ex. 4, pp. 9-10).

The appellant's representative testified that he submitted updated information to MassHealth concerning the appellant's assets prior to the hearing. (Testimony; Ex. 5). The appellant's representative relayed the difficulty he was having in obtaining information from one of the asset sources concerning the level of the appellant's assets and needed further time to try to obtain proof that the appellant's assets had been lowered. (Testimony). For that reason, the record was left open until May 30, 2024 to give him an opportunity to do so. (Ex. 6). The record closed on May 30, 2024 without the appellant's representative submitting the requested documentation, a fact MassHealth confirmed by email on June 4, 2024. (Ex. 7).

Findings of Fact

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

1. The appellant applied for LTC services on June 2, 2023. (Testimony; Ex. 4, p. 19).
2. On September 12, 2023, MassHealth issued a notice approving the appellant for the Senior Buy-In beginning May 1, 2023 and denying the request for MassHealth Standard for long term care residents due to excess assets. (Testimony).
3. The appellant timely filed an appeal of the September 12, 2023 notice on October 12, 2023. (Testimony; Ex. 4, pp. 11-17).
4. A hearing on the denial of the June 2, 2023 application was held on November 14, 2023. (Testimony; Ex. 4, pp. 11-17).
5. At the conclusion of the November 14 hearing, the hearing officer held the record open until December 19, 2023 to, among other things, allow the appellant's representative to submit evidence that the appellant had reduced his assets below the asset limit. (Testimony; Ex. 4, pp. 11-17).
6. Nothing was submitted during the record open period and the hearing officer issued a decision upholding MassHealth's denial of the application for MassHealth Standard for long term care residents on January 4, 2024. (Testimony; Ex. 4, pp. 11-17).
7. Subsequent to the issuance of the hearing decision, MassHealth issued the notice under appeal on March 2, 2024, approving the appellant for the Senior Buy-In but again showing that the appellant's assets still exceeded the asset limit for more comprehensive MassHealth coverage. (Testimony; Ex. 1, pp. 2-4; Ex. 4, pp. 1-2).
8. On March 21, 2024, MassHealth issued a request for information with a due date of June 19, 2024. (Testimony; Ex. 4, pp. 9-10).
9. The record was left open until May 30, 2024 to again give the appellant the opportunity to evidence an asset spend down, and again, nothing was submitted during the record open period.

Analysis and Conclusions of Law

BOH will dismiss a request for a hearing when it has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request. (130 CMR 610.035(A)(6)). The record shows that the appellant applied for LTC services in 2023. MassHealth issued a determination concerning the appellant's application on

September 12, 2023, denying the appellant's request for MassHealth Standard for longer term care residents due to excess assets. The same notice approved the appellant for MassHealth Senior Buy-In, a community benefit with a higher asset limit. The appellant, through his representative, appealed this determination, BOH scheduled and held a hearing, and, on January 4, 2024, a hearing officer issued a decision upholding MassHealth's denial of the request for MassHealth Standard for long term care residents. On March 2, 2024, MassHealth issued the determination under appeal, approving the appellant for the Senior Buy-In. It is not clear if the new long term care application was submitted on that date, but on March 21, 2024, MassHealth sent the appellant a request for information with a due date of June 19, 2024, so either a new application was submitted or information was submitted resulting in a new re-application date. The due date of June 19, 2024 had not passed as of the date of this hearing and any re-application made by the appellant after the January 4, 2024 appeal denial was still pending before MassHealth as of the date of hearing. Because the application was still pending with MassHealth at the time of this hearing, there is no MassHealth action over which BOH has jurisdiction, other than the approval for MassHealth Senior Buy In and finding of excess assets for MassHealth Standard in the community. The appellant has separate appeal rights on any MassHealth notice issued in response to the information request. The appeal is dismissed with regard to any request for long term care benefits, because MassHealth's denial of the June 2, 2023 application was already adjudicated at BOH, and any subsequent application for long term care benefits had not been acted on by MassHealth and therefore was not ripe for appeal at the time of this hearing. (130 CMR 610.035(4), (6); 130 CMR 610.032(A)(1)).

The notice on appeal is a reissuance of the approval for community Senior Buy-In with a start date of May 1, 2023 and MassHealth determined that the appellant's assets exceeded the community MassHealth Standard limit of \$2,000.00. (130 CMR 519.005(A)(2)). Even after a month long record open period, the appellant still did not submit documentation that his assets are at or below \$2,000.00. The appeal is denied as the appellant is not financially eligible for community MassHealth Standard for persons aged 65 and older.

Based on this, the appeal is DISMISSED in part, and DENIED in part.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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