

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2405339
Decision Date:	6/5/2024	Hearing Date:	05/02/2024
Hearing Officer:	Sharon Dehmand	Record Open to:	05/31/2024

Appearance for Appellant:



Appearance for MassHealth:

Douglas Thompson, 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:	Long Term Care; Verification
Decision Date:	6/5/2024	Hearing Date:	05/02/2024
MassHealth's Rep.:	Douglas Thompson	Appellant's Rep.:	Stepson
Hearing Location:	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 March 8, 2024, MassHealth denied the appellant's application for MassHealth long-term care benefits because MassHealth determined that the appellant did not provide MassHealth with the information it needed to decide eligibility within the required time frame. See 130 CMR 515.008 and Exhibit 1. The appellant filed this appeal in a timely manner on April 3, 2024. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal to the Board of Hearings. See 130 CMR 610.032(A)(1).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth long-term care benefits.

Issue

Whether MassHealth was correct in determining that the appellant did not provide MassHealth with the information it needed to decide eligibility within the required time frame. See 130 CMR 515.008.

Summary of Evidence

The following is a summary of the testimonies and evidence provided at the hearing:

The appellant's stepson, acting as her representative, and a MassHealth worker from the Charlestown MassHealth Enrollment Center participated telephonically. The appellant's stepson verified the appellant's identity and represented the appellant at the hearing.

The MassHealth representative testified that an initial long-term care application for the appellant was received by MassHealth on October 5, 2023. At that time, the appellant was and still is residing in an assisted living facility but has not been admitted to a nursing facility. Although the appellant submitted most of the required verifications with the application, MassHealth did not fully process these documents. As a result, on October 19, 2023, MassHealth issued a request for information seeking many verifications that had already been submitted. The response date for this request was January 17, 2024. On March 8, 2024, MassHealth denied the application for missing verifications (many of which had in fact been provided).

Additionally, MassHealth representative stated that at the time of the denial of the appellant's application, the only outstanding document was the trust assets document which the appellant had included with the Fair Hearing Request on April 3, 2024. At the hearing, MassHealth representative verified that all documents needed have now been received but that the MassHealth Legal Department will need to review the trust documents before a final determination for eligibility can be made by MassHealth.

The appellant's stepson expressed his frustration with the process and lack of clear communication and timely response by MassHealth. He stated that he has provided five years of bank statements and all other documents requested by MassHealth. He stated that the appellant's application was unfairly denied because he had provided all documents requested by MassHealth. Additionally, the appellant's stepson stated that he is in process of finding a nursing facility for the appellant and needs to establish some sort of MassHealth coverage for her prior to her acceptance into a nursing facility.

The MassHealth representative stated that as soon as the MassHealth Legal Department reviews the trust documents, the appellant's application will be processed for MassHealth community coverage. Also, once the appellant is placed in a nursing facility, the facility will assist with the supplemental application needed to process a long-term care application.

The record was left open based on the appellant's stepson's request until May 17, 2024, to allow the MassHealth Legal Department to review the submitted trust documents. Two subsequent extensions were granted to facilitate the completion of this task. The last extension expired on May 31, 2024. The MassHealth Legal Department has not rendered an opinion.

Findings of Fact

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

1. The appellant is over the age of 65 and lives in an assisted living facility. (Testimony).
2. On October 5, 2023, an initial long-term care application for the appellant was received by MassHealth. (Testimony and Exhibit 6, p. 8).
3. The application included most of the required verifications but was not processed in a timely manner by MassHealth. (Testimony and Exhibit 5).
4. On October 19, 2023, a request for information was sent out by MassHealth with a response date of January 17, 2024. (Testimony).
5. On March 8, 2024, MassHealth determined that the appellant was not eligible for MassHealth benefits due to missing verifications because MassHealth failed to review the documents already submitted. (Testimony and Exhibit 1).
6. At the time of this denial, the only outstanding verification was the trust documents. (Testimony).
7. The appellant filed this appeal in a timely manner on April 3, 2024, and submitted the outstanding trust documents with the Fair Hearing Request. (Testimony, Exhibit 2, and Exhibit 5).
8. At the time of the hearing, the MassHealth Legal Department had not reviewed the trust documents. (Testimony).
9. All required verifications have been received by MassHealth. (Testimony).
10. The record was left open until May 17, 2024, to allow the MassHealth Legal Department to review the trust documents. (Testimony, Exhibit 7).
11. The record was further extended until May 24, 2024, and May 31, 2024, for the MassHealth Legal Department to complete its review. (Exhibit 8-9).
12. The MassHealth Legal Department has not provided an opinion. (Exhibit 10).

Analysis and Conclusions of Law

MassHealth is responsible for the administration and delivery of health-care services to low and moderate-income individuals and couples. See 130 CMR 515.002(A). The MassHealth regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over the age of 65, as here.

In order to determine eligibility, applicants have certain responsibilities as set forth in 130 CMR 515.008.

...(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. of an Appellant.

(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.

MassHealth may also require additional information or documents to determine eligibility as set forth in 130 CMR 516.001.

...(A) Filing an Application.

(1) Application. To apply for MassHealth

(a) for an individual living in the community, an individual or his or her authorized representative must file a complete paper Senior Application and all required Supplements or apply in person at a MassHealth Enrollment Center (MEC); or

(b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

(2) Date of Application.

(a) The date of application is the date the application is received by the MassHealth agency.

(b) An application is considered complete as provided in 130 CMR 516.001(C).

(c) If an applicant described in 130 CMR 519.002(A)(1) has been denied SSI in the 30-

day period before the date of application for MassHealth, the date of application for MassHealth is the date the person applied for SSI.

(3) Paper Applications or In-person Applications at the MassHealth Enrollment Center (MEC) — Missing or Inconsistent Information.

(a) If an application is received at a MassHealth Enrollment Center or MassHealth outreach site and the applicant did not answer all required questions on the Senior Application or if the Senior Application is unsigned, the MassHealth agency is unable to determine the applicant's eligibility for MassHealth.

(b) The MassHealth agency requests responses to all of the unanswered questions necessary to determine eligibility. The MassHealth agency must receive such information within 15 days of the date of the request for the information.

(c) If responses to all unanswered questions necessary to determine eligibility are received within 15 days of the date of the notice, referenced in 130 CMR 516.001(A)(3)(b), the MassHealth agency will request any corroborative information necessary to determine eligibility, as provided in 130 CMR 516.001(B) and (C).

(d) If responses to all unanswered questions necessary for determining eligibility are not received within the 15-day period referenced in 130 CMR 516.001(A)(4)(b), the MassHealth agency notifies the applicant that it is unable to determine eligibility. The date that the incomplete application was received will not be used in any subsequent eligibility determinations. If the required response is received after the 15-day period, the eligibility process commences and the application is considered submitted on the date the response is received, provided that if the required response is submitted more than one year after the initial incomplete application, a new application must be completed.

(e) Inconsistent answers are treated as unanswered.

(B) Corroborative Information. 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 days¹ of the date of the request, and of the consequences of failure to provide the information.

(C) Receipt of Corroborative Information. If the requested information, with the exception of verification of citizenship, identity, and immigration status, is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. If such information is not received within 30 days of the date of the

¹ Effective April 1, 2023, MassHealth extended the time that non-MAGI applicants and members will have for verifying eligibility factors and providing corroborative information, from 30 days to 90 days. See MassHealth Eligibility Operations Memo 23-09 (March 2023).

request, MassHealth benefits may be denied.

Here, MassHealth sent out a written notification on October 19, 2023, with a response date of January 17, 2024, requesting corroborative information. *See* 130 CMR 516.001(B). However, as testified by the MassHealth representative and provided as documentary evidence by the appellant's stepson, the appellant had already provided most of the requested documents with the original application. (Testimony and Exhibit 5).

On March 8, 2024, MassHealth erroneously determined that the appellant was not eligible for MassHealth benefits due to missing verifications because MassHealth failed to verify the documents already submitted. In fact, the only outstanding document at the time of the denial of the appellant's application was the trust assets document. (Testimony and Exhibit 1).

The appellant's stepson filed a timely Fair Hearing Request on April 3, 2024, and included said trust documents with the request as testified to by the MassHealth representative. (Testimony and Exhibit 5). At the hearing, the MassHealth representative confirmed that all required verifications were received by MassHealth.

Since all verifications have been received by MassHealth, this appeal is APPROVED.

Order for MassHealth

Re-determine the appellant's eligibility for MassHealth coverage while preserving the date of the original application.

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.

Sharon Dehmand
Hearing Officer
Board of Hearings

cc:

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