

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2406196
<b>Decision Date:</b>	6/3/2024	<b>Hearing Date:</b>	05/20/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	05/28/2024

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kim McAvinchey



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	6/3/2024	<b>Hearing Date:</b>	05/20/2024
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	All Parties Appeared by Telephone		

### 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 22, 2024, MassHealth denied the appellant's application for long-term care benefits for failure to provide information necessary to complete the application. (130 CMR 516.001; Exhibit 1). The personal representative for the appellant's estate filed a timely appeal on April 19, 2024. (130 CMR 610.015(B); Exhibit 2; Exhibit 3). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for failure to provide information necessary to complete the application. (130 CMR 516.001).

### Issue

Whether MassHealth was correct in denying the appellant's application for failure to provide information necessary to complete the application.

## Summary of Evidence

MassHealth received an application for long-term care in June 2023 seeking coverage as of March 1, 2023. The appellant passed away prior to filing the application. A personal representative for the appellant's estate was appointed on October 6, 2023. (Exhibit 3).

On July 7, 2023, MassHealth issued a notice seeking information necessary to complete the application. The appellant was provided more than 90 days to provide the information necessary to determine eligibility for long-term care. On November 9, 2023, MassHealth denied the application for failure to provide information necessary to determine eligibility. On November 29, 2024, MassHealth received additional information from the appellant and re-stamped the application. Neither party presented testimony or evidence regarding the filing of an appeal on the November 2023 notice. On December 14, 2023, MassHealth issued a second information request. On March 22, 2024, MassHealth issued a final denial for failure to provide information necessary to determine eligibility.

The notice on appeal lists more than 8 items that were not provided to MassHealth. At hearing, the MassHealth representative noted that the appellant did provide some of the information prior to the hearing but not all of the information necessary to determine eligibility. For example, the application lists a pension in the amount of \$666 each month. The appellant provided verification of a monthly pension of \$267 each month. At hearing, the MassHealth representative testified that the appellant's tax return reflects the receipt of a pension totaling \$8,002 each year or approximately \$666 each month. However, there is no other information regarding the pension and the amount verified by the appellant was one of \$267. It was unclear to all parties as to the source of this remaining balance.

The personal representative of the appellant's estate stated that she did not have enough information to be able to speak to the discrepancy in the pension amount reported versus that verified. The appellant's representative acknowledged that there was possibly another source of income but did not have verification of that income or lack thereof.

The MassHealth representative testified that the appellant also had not provided information regarding the disbursement of proceeds from the sale of property in [REDACTED]. The appellant's representative asked for the record to be held open. That request was denied as this was an application from June 2003, the personal representative of the appellant's estate was appointed in October 2023 and as of the hearing date in May 2024, the representative had not provided the information requested by MassHealth.

After the hearing, the Hearing Officer received documents from staff at the Board of Hearings that were received prior to the hearing. (Exhibit 6). At hearing, the appellant's representative did not make any inquiries or declarations regarding the submission of such documents. The record was reopened to give the benefit of the doubt to the appellant's representative that such documents

were submitted prior to the hearing and provide MassHealth with the opportunity to review and respond to this submission. The MassHealth representative reviewed the records and responded that there were still items outstanding. (Exhibit 7).

## **Findings of Fact**

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

1. MassHealth received an application for long-term care in June 2023 seeking coverage as of March 1, 2023.
2. The appellant passed away prior to filing the application.
3. A personal representative for the appellant's estate was appointed on October 6, 2023.
4. On July 7, 2023, MassHealth issued a notice seeking information necessary to complete the application.
5. On November 9, 2023, MassHealth denied the application for failure to provide information necessary to complete the application.
6. On November 29, 2023, MassHealth received additional information from the appellant and re-stamped the application.
7. On December 14, 2023, MassHealth issued a second information request.
8. On March 22, 2024, MassHealth issued a final denial for failure to provide information necessary to determine eligibility.
9. As of the close of the hearing record, MassHealth had not received information necessary to determine eligibility for long-term care.

## **Analysis and Conclusions of Law**

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130

CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 515.008, applicants or members must cooperate with MassHealth in providing information to establish and maintain eligibility and must comply with all of the rules and regulations governing MassHealth, including recovery. MassHealth may request additional information and documentation, if necessary, to determine eligibility. (130 CMR 516.001).

To obtain the necessary information and documentation, MassHealth sends the applicant written notification requesting verifications to corroborate information necessary to determine eligibility, generally within five days of the receipt of the application. (130 CMR 516.001(B)). The notice advises the applicant that the requested verifications 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)). Under the regulations, if the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied. (130 CMR 516.001(C)). In March 2023, to align timelines for Modified Adjusted Gross Income (MAGI) and non-MAGI populations, MassHealth extended the number of days for non-MAGI members and applicants to send MassHealth verifications and information necessary for an eligibility determination from 30 days to 90 days. (Eligibility Operations Memo 23-09).

In this case, the appellant was provided with the appropriate 90 days to provide the information necessary for an eligibility determination. As of the date of the notice on appeal, hearing and after the hearing date, the appellant had not provided that information. The appellant's representative did not dispute the fact that the appellant received proper notices requesting information. (130 CMR 516.001).

MassHealth acted within its discretion to deny the appellant's application for long-term care coverage. (130 CMR 516.001(C)). The appellant failed to demonstrate that they provided information necessary to determine eligibility. The decision made by MassHealth was correct.

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.

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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290