

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407081
Decision Date:	7/18/2024	Hearing Date:	06/04/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	07/09/2024

Appearance for Appellant:



Appearance for MassHealth:

Anna Martinez



*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; Over 65
Decision Date:	7/18/2024	Hearing Date:	06/04/2024
MassHealth's Rep.:	Anna Martinez	Appellant's Rep.:	Spouse
Hearing Location:	Tewksbury MEC	Aid Pending:	Yes

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 April 8, 2024, determined the appellant is not eligible for MassHealth as he did not provide MassHealth the information it needs to determine eligibility within the required timeframe. (130 CMR 515.008; 130 CMR 516.001; Exhibit 1). The appellant filed a timely appeal on May 2, 2024. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined the appellant ineligible for MassHealth because he did not give MassHealth the information it needs to determine eligibility. (130 CMR 515.008 and 516.001)

Issue

Whether MassHealth was correct in determining the appellant ineligible for failure to provide the information it needs to determine eligibility.

Summary of Evidence

The appellant is over [REDACTED] of age and lives in the community. MassHealth received an application for coverage on December 28, 2023. On January 2, 2024, MassHealth sent a request

seeking information necessary to determine eligibility. The information was due on or before April 1, 2024. On April 8, 2024, MassHealth issued a notice determining the appellant ineligible as he did not provide MassHealth the information it needed to determine eligibility. As of the date of the hearing, June 4, 2024, MassHealth still had not received the necessary information from the appellant.

The MassHealth representative at hearing and notice on appeal list the following items as outstanding: recent bank statements from a checking account and a savings account at [REDACTED] or information confirming account closure; a copy of a registration, assessed value and amount owed (if any) for a [REDACTED] or proof of sale; a copy of a registration, assessed value and amount owed (if any) for a [REDACTED] van or proof of sale; a recent real estate tax bill on property in [REDACTED] page 7 of the application; and information about health insurance and possible premium payments. (Testimony; Exhibit 1).

At hearing, the appellant's representative testified that she sent the necessary information to MassHealth on three separate occasions. The MassHealth representative responded that as of the date of the hearing the agency's records do not indicate receipt of any documents or correspondence from the appellant or the representative present at hearing. The appellant's representative noted that the appellant has several medical conditions and was in the hospital as of the date of the hearing. The appellant's representative testified that she cannot produce information about the two vehicles as they were in an accident a few years ago and they no longer have possession of or title to the vehicles. The appellant's representative testified that she does not have a tax bill for the property in [REDACTED] as it's on a lot for which they pay a monthly fee for water and taxes. The appellant's representative noted that they have health insurance and can provide that information and a copy of page 7 of the application.

As the appellant's representative noted at hearing that information was provided to MassHealth on more than one occasion and she had the information to present to MassHealth again, the record was held open for one week to give the appellant's representative the opportunity to provide the information necessary to determine eligibility. (Exhibit 4). At the request of the appellant's representative, the MassHealth representative sent a written list of outstanding items. (Exhibit 5). The list provided during the appeal process contains the same items as those listed on the notice on appeal. (Exhibit 1; Exhibit 5). The record open period was extended upon a request by the appellant's representative. (Exhibit 6). During the record open period the appellant's representative provided: a certificate of registration for a car not on the request for information; page 7 of the application; approval for clinical eligibility for a frail elder waiver; recent bank statements for the two accounts listed on the request for information; Social Security Benefit statements for the appellant and his spouse; and a list of medical conditions, procedures, medications and providers for both the appellant and his spouse.¹ (Exhibit 7). The records also

¹ The medical records appear to be summaries of conditions, medications and providers for the appellant and his spouse, drafted by the appeal representative rather than actual medical records. There are no signatures or references at the top or bottom of any of the documents to indicate that they are official medical records. Even if they were, they are not on the list of documents requested by MassHealth so not relevant to this hearing.

include a statement about having health insurance but no card and a summary of the arrangements regarding the property taxes and insurance from the appeal representative but nothing about or from the entity to whom such payments are made or any other verification of such bills or payments. (Exhibit 7). The records also include statements about the two vehicles and information about accidents and checks received from an insurance company but no evidence of such. (Exhibit 7). The MassHealth representative reviewed the records submitted noting that the agency had still not received copies of health insurance cards or verification related to the real estate. (Exhibit 7). Therefore, MassHealth did not have all of the information necessary to make an eligibility determination.

Findings of Fact

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

1. The appellant is over [REDACTED]
2. MassHealth received an application for coverage on December 28, 2023.
3. On January 2, 2024, MassHealth sent a request seeking information necessary to determine eligibility.
4. The information was due on or before April 1, 2024.
5. On April 8, 2024, MassHealth issued a notice determining the appellant ineligible as he did not provide MassHealth the information it needed to determine eligibility.
6. As of the date of the hearing, June 4, 2024, MassHealth still had not received the necessary information from the appellant.
7. As of the date of the hearing the following items remained outstanding:
 - a. Bank statements from a checking account and savings account at [REDACTED] or information confirming account closure;
 - b. A copy of a registration, assessed value and amount owed (if any) for a [REDACTED] or proof of sale;
 - c. A copy of a registration, assessed value and amount owed (if any) for a [REDACTED] van or proof of sale;
 - d. A recent real estate tax bill on property in [REDACTED]
 - e. Page 7 of the application regarding the spouse's information.
8. As of the close of a record open period, the appellant did not provide all of the information necessary to determine eligibility.

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 ■ 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 over ■ years of age. 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 requires verification of eligibility factors including income, assets, residency, citizenship, immigration status and identity. (130 CMR 516.003). MassHealth initiates information matches with federal and state agencies and other informational services, as described at 130 CMR 516.004, when an application is received in order to verify eligibility. (130 CMR 516.003(A)). If electronic data sources are unable to verify or are not reasonably compatible with the attested information, additional documentation will be required from the individual. (130 CMR 516.003(B)). 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. (130 CMR 516.003(C)).

The following time standards are listed in the regulations as applicatory 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. (130 CMR 516.003(D)).

Except with respect to the verifications of citizenships and immigration status, MassHealth will permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster. (130 CMR 516.003(G)).

In March 2023, MassHealth issued Eligibility Operations Memo 23-09 where MassHealth extended the time that non-MAGI applicants and members have for verifying eligibility factors and providing corroborative information, from 30 days to 90 days. This extension provides more time to respond to a Request for Information and submit verifications and information necessary for MassHealth to make an eligibility determination.

MassHealth acted correctly under these time standards. The notice on appeal and the messages submitted by the MassHealth representative during the course of the appeal all note information that has not been received by the agency. While MassHealth can accept self-attestation on a case-by-case basis when documentation is not available at the time of the application or renewal, it is difficult to conclude that information regarding the taxes and insurance on property that the appellant owns and resides does not exist as well as copies of health insurance cards. Additionally, the appellant's representative did not present a clear picture as to why the information could not be provided. Therefore, it does not appear to be a case where self-attestation would be appropriate.

The decision made by MassHealth was correct.

This appeal is denied.

Order for MassHealth

Release the appellant's aid pending and continue to process the eligibility determination on appeal.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc: [REDACTED]

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