

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied in part; Dismissed in part	Appeal Number:	2408569
Decision Date:	8/12/2024	Hearing Date:	July 18, 2024
Hearing Officer:	Brook Padgett		

Appellant Representative:




MassHealth Representative:

Katie LaDuke



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied in part; Dismissed in part	Issue:	130 CMR 516.001 130 CMR 610.015 Verifications
Decision Date:	8/12/2024	Hearing Date:	July 18, 2024
MassHealth Rep.:	K. LaDuke	Appellant Rep.:	
Hearing Location:	Springfield		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The appellant received a notice dated April 03, 2024, stating: MassHealth has decided you are eligible for MassHealth Standard benefits to cover your care in a Nursing Facility. Your eligibility begins on October 01, 2023. 130 CMR 515.008. (Exhibit 1). The appellant appealed the notice timely on May 30, 2023. (130 CMR 610.015(B); Exhibit 2). Eligibility determination is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's application for Long Term Care (LTC) benefits beginning October 01, 2024.

Issue

Did MassHealth correctly determine the appellant's request for long term care benefits?

Summary of Evidence

MassHealth testified the appellant originally applied for MassHealth long term care benefits on September 20, 2023. The application was missing information to determine her eligibility which generated a request for information (VC-1) on September 27, 2023¹. All the requested information was not received by the due date and a denial of benefits was issued on January 03, 2024. Additional information was submitted by the appellant on January 16, 2024, and the application was re-stamped as of that date along. Information remained outstanding and an additional request (VC-2) was sent to the appellant for the missing verifications. On March 29, 2024 all the required verification were received and the appellant was approved for MassHealth long term care services beginning October 01, 2023, which is three months prior to the restamped application date of January 16, 2024. The MassHealth representative stated the appellant did not appeal the first denial so MassHealth can only approve requested benefits retroactive to the reapplication date. MassHealth submitted into evidence the appellant's application, VC-1 and VC-2. (Exhibit 4).

The appellant's representative testified that the appellant is requesting coverage as of September 01, 2023. The representative stated it has been very difficult getting information from the appellant's daughter, however a packet of the requested information was sent to MassHealth by priority mail on December 16, 2023. The package was scheduled to arrive on December 18, 2023, so it is unclear why MassHealth did not receive the information until January 16, 2024. The representative argued the appellant should not have been denied on January 03, 2024 as MassHealth had the required information in their possession.

The MassHealth representative responded that some of the information requested by the VC-1 of September 27, 2023 was received by MassHealth on December 20, 2024 and processed. Additional information (Nursing Facility screening) was also received on January 16, 2024, however based on the submission of bank account information it was determined the appellant had a life insurance policy which had not been verified, so a second request was issued on January 16, 2024 (VC-2). The appellant did not provide all the required documentation to determine her eligibility until March 29, 2024 when a life insurance policy was verified by fax. The January 16, 2024 re-application was then complete and a determination was made retroactive to October 01, 2023 the first date of eligibility based on the regulations.

Findings of Fact

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

1. On September 20, 2023, the appellant applied for MassHealth long term care benefits. (Exhibit 4).

¹ Income, assets, burial contract, nursing facility screening, vehicle, pension and PNA.

2. On September 27, 2023, MassHealth sent the appellant a request for information. (Exhibit 4).
3. On December 20, 2023 appellant provided some of the requested information. (Testimony).
4. On January 03, 2024 the appellant's request for long term care benefits was denied for failure to provide all required verifications. (Exhibit 4).
5. The long term care request denial of January 03, 2024 was not appealed.
6. On January 16, 2024, additional verifications were submitted and the appellant's application was re-stamped as of that date. (Exhibit 4).
7. On January 16, 2024, a request for life insurance information was issued. (Exhibit 4).
8. On March 29, 2024, the appellant submitted the requested verifications. (Testimony).
9. On April 03, 2024, the appellant's re-application was approved with a start date of October 01, 2023, based on the re-application stamp date of January 16, 2024. (Exhibit 1).

Analysis and Conclusions of Law

Pursuant to 130 CMR 516.001(D)(1), the date outstanding verifications are submitted, is considered the date of application. This date replaces the date of a previously denied request for benefits (130 CMR 516.001(D)(2)) and is considered the initial application and the earliest date of eligibility for MassHealth. (130 CMR 516.001(D)(2)).

130 CMR 516.001: Overview

(D) Receipt of Corroborative Information. If the requested information, with the exception of verification of immigration status, is received within 30 days of the date of the request, the MBR is considered complete. The completed SMBR activates the MassHealth agency's eligibility process for determining 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 request, MassHealth benefits may be denied.

- (1) Except as provided in 130 CMR 515.003(C), **if the requested information is received within 30 days of the date of the denial, the date of receipt of one or more of the verifications is considered the date of reapplication.**
- (2) **The date of reapplication replaces the date of the denied SMBR. The applicant's earliest date of eligibility for MassHealth is based on the date of reapplication.** (*Emphasis added*).

Per the regulations MassHealth may approve coverage retroactive only to the first day of the third month prior to the month of initial application, if the individual would have been eligible at the time. The appellant applied for MassHealth long term care benefits on September 20, 2023. A request for missing verification was issued on September 27, 2023. The appellant submitted some of the missing verification on December 20, 2023, but the application was incomplete and her request was denied on January 03, 2024. On January 16, 2024 the appellant submitted additional verification and her application was restamped as of that date. MassHealth determined that bank balance information indicated there was an unreported life insurance policy so another request for verifications was issued on January 16, 2024. The missing verifications were received by MassHealth by fax on March 29, 2024 and the appellant's request for long term care benefits was approved retroactive to October 01, 2024 based on the restamped application date of January 16, 2024. MassHealth correctly determined the appellant's start date and this appeal is denied in part.

The appellant is attempting to seek redress of the January 03, 2024, MassHealth denial by appealing the April 02, 2024 MassHealth denial; however the regulations are clear that an individual has 60 days from the receipt of a notice to request an appeal if they disagree with the MassHealth action. (130 CMR 610.015(B))². The appellant did not appeal the January 03, 2024, MassHealth action to the Board of Hearings until May 30, 2024, which is 148 days and not within the required 60 day time limit, therefore the request for retroactive benefits regarding the January 03, 2024 denial must be dismissed in part.

Order for MassHealth

None.

² **130 CMR 610.015 Time Limits Time Limitation on the Right of Appeal.** (B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits: (1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing; ...

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth representative: Springfield MEC

