

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2408773
Decision Date:	09/26/2024	Hearing Date:	07/18/2024
Hearing Officer:	Emily Sabo	Record Open to:	08/15/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nancy Derisma, Charlestown MEC

Interpreter:



*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:	Community Eligibility—under 65; Verifications
Decision Date:	09/26/2024	Hearing Date:	07/18/2024
MassHealth's Rep.:	Nancy Derisma	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	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 May 21, 2024, MassHealth notified the Appellant that his benefits would be terminated, effective June 4, 2024, due to failing to provide proof in the time allowed. 130 CMR 502.003(D) and Exhibit 1. The Appellant filed this appeal in a timely manner on June 3, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth CarePlus benefits for failing to provide proof in the time allowed.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 502.003(D), in determining that it was appropriate to terminate the Appellant's CarePlus benefit for failing to

provide proof in the time allowed.

Summary of Evidence

The hearing was held by telephone. The Appellant is an adult between the ages of 21-64 and was previously eligible for CarePlus. The MassHealth representative testified that MassHealth did not receive proof of the Appellant's Massachusetts residency. The Appellant testified through an interpreter and verified his identity. The Appellant testified that his step-brother mailed in the proof of the Appellant's Massachusetts residency.

The record was held open until August 1, 2024, for the Appellant to submit proof of his Massachusetts residency, and until August 15, 2024, for MassHealth to review and respond. MassHealth and the Board of Hearings did not receive proof of the Appellant's Massachusetts residency. Exhibit 6.

Findings of Fact

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

1. The Appellant is an adult between the ages of 21-64. Exhibit 4.
2. The Appellant was previously eligible for MassHealth CarePlus. Exhibit 4.
3. MassHealth did not receive proof of the Appellant's Massachusetts residency. Testimony; Exhibit 6.

Analysis and Conclusions of Law

The MassHealth regulations provide as follows:

502.003: Verification of Eligibility Factors

The MassHealth agency requires verification of eligibility factors including income, residency, citizenship, immigration status, and identity as described in 130 CMR 503.000: *Health Care Reform: MassHealth: Universal Eligibility Requirements*, 130 CMR 504.000: *Health Care Reform: MassHealth: Citizenship and Immigration*, and 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*.

(A) Information Matches. The MassHealth agency initiates information matches with other agencies and information sources as described at 130 CMR 502.004 in the

following order, when an application is received in order to verify eligibility:

- (1) the Federal Data Hub, which matches with the Social Security Administration, the Department of Homeland Security, and the Internal Revenue Service; and
- (2) other federal and state agencies and other informational services.

(B) Electronic Data Sources. 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.

(C) Request for Information Notice. If additional documentation is required, including corroborative information as described at 130 CMR 502.001(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.

(D) Time Standards. The following time standards apply to the verification of eligibility factors.

- (1) The applicant or member has 90 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 90 days of receipt of the MassHealth agency's request, the MassHealth agency does one of the following.
 - (a) If the required information is available from electronic data sources, the MassHealth agency uses that information to redetermine eligibility.
 - (b) If the required information is not available from electronic data sources, MassHealth coverage is denied or terminated except for individuals described at 130 CMR 502.001(D)(1) through (4).
 - (c) If the required verifications are received within one year from the date of the application or renewal form was received, coverage is reinstated to a date 10 days before the receipt of the verifications.
 - (d) If the required verifications are not received within one year of receipt of the previous application or renewal form, a new application must be completed.

(E) Provisional Eligibility. The MassHealth agency will provide benefits while the applicant provides the MassHealth agency outstanding corroborative information in accordance with 130 CMR 502.003(D)(1), except for individuals described at 130 CMR 502.003(E)(2). Except as further set forth below, the MassHealth agency will accept self-attestation for all eligibility factors other than citizenship and immigration status, and make a provisional eligibility determination as if the applicant had supplied the information. MassHealth applicants can receive only one provisional eligibility approval during a 12-month period, unless the individual is pregnant. MassHealth members are required to enroll in managed care during the provisional eligibility period, if enrollment is otherwise required as described in 130 CMR 508.004: *Managed Care Organizations*

(MCOs). MassHealth members who have been assessed a premium are subject to payment of premiums during the provisional eligibility period. Premium assistance is not awarded during the provisional eligibility period. It is only provided when all corroborative information has been received and the health insurance investigation is complete, as described in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*. Provisional eligibility is subject to the following limitations.

(1) Coverage Date.

(a) Coverage for individuals who have been determined provisionally eligible begins 10 days before the date the application is received.

(b) If all required verifications are received before the end of the provisional eligibility period, retroactive coverage is provided for the verified coverage type in accordance with 130 CMR 505:000: *Health Care Reform: MassHealth: Coverage Types*.

(2) Limitations. Provisional eligibility is subject to the following limitations.

(a) Provisional eligibility is not available for adults 21 years of age or older who have not verified all income in their MAGI household, as described at 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*, unless the individual is

1. pregnant and has attested MAGI income at or below 200% of the federal poverty level (FPL);
2. 21 through 64 years of age and HIV-positive with attested MAGI income at or below 200% of the FPL; or
3. in active treatment for breast or cervical cancer and is younger than 65 years old with attested MAGI income at or below 250% of the FPL.

(b) The MassHealth agency will not accept self-attestation of disability. Disability must be verified as described in 130 CMR 505.002(E)(1): *Disabled Adults*.

Eligibility for applicants who apply for benefits on the basis of disability will be determined as if they were not disabled until disability is verified as described in 130 CMR 505.002(E)(1): *Disabled Adults*.

(c) A member's coverage type will not be redetermined during the provisional eligibility period, except that members granted provisional eligibility who attest to pregnancy will be enrolled in MassHealth Standard.

130 CMR 502.003 (A) – (E).

503.002: Residence Requirements

As a condition of eligibility, an applicant or member must be a resident of the Commonwealth of Massachusetts.

(A) Unless otherwise specified

- (1) individuals 21 years of age and older are residents of the Commonwealth if they are living in the Commonwealth and either

- (a) intend to reside in the Commonwealth, with or without a fixed address; or
- (b) have entered the Commonwealth with a job commitment or are seeking employment, whether or not they are currently employed; or
- (2) individuals 21 years of age and older who are not capable of stating intent as defined in 42 CFR 435.403(c) are residents of the Commonwealth if they are living in the Commonwealth.
- (3) For any other non-institutionalized individuals 21 years of age and older not subject to 130 CMR 503.002(A)(1) or (2), their residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the Transitional Assistance to Families with Dependent Children (TAFDC) program.

(B) Unless otherwise specified

- (1) individuals younger than 21 years old are residents of the Commonwealth if they are capable of indicating intent and are either married or emancipated from their parents and meet the requirements of 130 CMR 503.002(A)(1); or
- (2) individuals younger than 21 years old not described in 130 CMR 503.002(B)(1) are residents of the Commonwealth if they are
 - (a) living in the Commonwealth, with or without a fixed address; or
 - (b) living with their parent or caretaker who is a resident of the Commonwealth in accordance with the requirements of 130 CMR 503.002(A)(1).

(C) Individuals of any age who are receiving a state supplementary payment (SSP) are residents of the Commonwealth if the Commonwealth is the state paying the SSP.

(D) Individuals of any age who are receiving federal payments for foster care and adoption assistance under title IV-E of the Social Security Act are residents of the Commonwealth if the Commonwealth is the state where the individuals live.

- (E) (1) The individual's residency is considered verified if the individual has attested to Massachusetts residency and the residency has been confirmed by electronic data matching with federal or state agencies or information services.
(2) If residency cannot be verified through electronic data matching or there is conflicting information, the MassHealth agency may require documentation to validate residency.

(F) Acceptable proof of Massachusetts residency includes the following, as well as any other verification allowed as determined by the MassHealth agency:

- (1) copy of deed and record of most recent mortgage payment (if mortgage is paid in full, provide a copy of property tax bill from the most recent year);
- (2) current utility bill or work order dated within the past 60 days;
- (3) statement from a homeless shelter or homeless service provider;
- (4) school records (if school is private, additional documentation may be requested);
- (5) nursery school or daycare records (if school is private, additional documentation may be requested);
- (6) Section 8 agreement;
- (7) homeowner's insurance agreement;
- (8) proof of enrollment of custodial dependent in public school;
- (9) copy of lease and record of most recent rent payment; or
- (10) affidavit supporting residency signed under pains and penalties of perjury that states the individual is not visiting Massachusetts for personal pleasure or to receive medical care in a setting other than a nursing facility.

(G) Examples of applicants or members who do not meet the residency requirement for MassHealth are

- (1) individuals who came to Massachusetts for the purpose of receiving medical care in a setting other than a nursing facility, and who maintain a residence outside of Massachusetts;
- (2) individuals visiting Massachusetts for personal pleasure, who maintain a residence outside of Massachusetts; and
- (3) individuals whose whereabouts are unknown.

(H) Inmates of penal institutions may not receive MassHealth benefits except under one of the following conditions, if they are otherwise eligible for MassHealth:

- (1) they are inpatients in a medical facility; or
- (2) they are living outside of the penal institution, are on parole, probation, or home release, and are not returning to the institution for overnight stays.

130 CMR 503.002.

As outlined above, in order to be eligible for MassHealth benefits, including CarePlus, an individual

must be a resident of Massachusetts, as described in 130 CMR 503.002. Based on the information in the record, the Appellant did not provide proof that he is a resident of Massachusetts. Accordingly, MassHealth did not err in terminating his benefit. 130 CMR 502.003(D)(2)(b). Therefore, the appeal is denied.¹

Order for MassHealth

End aid pending.

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.

Emily Sabo
Hearing Officer
Board of Hearings

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

¹ If the Appellant submits proof of Massachusetts residency, within one year of his renewal application, and is otherwise eligible for MassHealth CarePlus, his benefit can be reinstated to ten days before the receipt of the verification, in accordance with 130 CMR 502.003(D)(2)(c).