

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409447
Decision Date:	10/28/2024	Hearing Date:	7/15/2024
Hearing Officer:	Patrick Grogan	Record Open to:	9/20/24

Appearance for Appellant:



Appearance for MassHealth:

Jamie Lapa, Springfield MEC

Interpreter:

N/A



*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:	Verifications, Eligibility for Long Term Care, Eligibility over 65
Decision Date:	10/28/2024	Hearing Date:	7/15/2024
MassHealth's Rep.:	Jamie Lapa	Appellant's Rep.:	
Hearing Location:	Remote (Tel)	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 June 5, 2024, MassHealth denied the Appellant's application for MassHealth Long-Term-Care Services in a Nursing Facility because MassHealth determined that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1). The Appellant filed this appeal in a timely manner on June 14, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth Long-Term-Care Services in a Nursing Facility because MassHealth determined that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility within the required time frame (see 130 CMR 515.008 and Exhibit 1).

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the Appellant did not provide necessary information MassHealth requires to decide the Appellant's eligibility for MassHealth Long-Term-Care Services in a Nursing Facility within the required time frame (see 130 CMR 515.008 and Exhibit 1).

Summary of Evidence

The Appellant, an individual over the age of 65, filed an application for MassHealth Long-Term-Care Services in a Nursing Facility) A denial, dated June 5, 2024, which is the subject of this appeal, was sent to the Appellant. (Exhibit 1)

The Appellant filed an appeal, and a hearing was held on July 15, 2024. (Exhibit 2, Exhibit 3 Testimony) At the Hearing, MassHealth listed multiple required items outstanding for MassHealth to make a determination regarding eligibility. (Exhibit 6, Testimony). Specifically, MassHealth required submission of 1) information related to income derived from a specific, named pension 2) information related to a specific, named annuity, 3) information from a specific, named checking account, statements from March 1, 2024 to present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more, 4) information related to the Appellant's intention or expectation to return to the Appellant's residence, 5) information related to a Personal Needs Account, 6) information from a specific, named savings account, statements from January, 2023, through present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more 7) information related to a Note 8) information related to a specific, named Irrevocable Trust 9) information related to a different specific, named Irrevocable Trust 10) information related to real property located in [REDACTED] Massachusetts, 11) information related to real property located in [REDACTED] Massachusetts, 12) resubmission of page 12 of the Application for Long-Term-Care Services 13) information related to a specific life insurance policy, 14) information related to a different specific life insurance policy, 15) information related to an unnamed bank account, with a known account number, information related to the ownership of the account along with statements from September 2022 to present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more, 16) information related to specific, named stocks, 17) information related to an unnamed bank account, with a known account number, information related to the ownership of the account along with statements from September 2022 to present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more, 18) an SC-1 form and 19) a Nursing Facility screen. (Exhibit 6, Testimony) The Record was left open until September 6, 2024 for the Appellant to provide the required information and until September 20, 2024 for MassHealth to review. (Exhibit 6).

Upon the expiration of the Record Open period for the Appellant, no additional submissions were received. Prior to the expiration of the Record Open period for MassHealth, MassHealth

attempted to contact the Appellant's conservator, but learned that the Appellant's conservator was out of the office, scheduled to return on Thursday, September 19, 2024. (Exhibit 7, pgs. 3-4) In an abundance of fairness to the Appellant, it was determined that action on the instant appeal would await the return of the conservator, without objection from MassHealth. (Exhibit 7, pg. 2) However, no response was received from the Appellant's conservator.

On Thursday, September 26, 2024, having received no update from the Appellant's conservator, inquiry was posed to the parties, requesting a status update. (Exhibit 7, pgs. 1-2) On Thursday, September 26, 2024, a read receipt, indicating that the Appellant's conservator had read the inquiry posted to the parties, was received. (Exhibit 8). On Friday, September 27, 2024, MassHealth confirmed that MassHealth had still not received any submission on behalf of the Appellant in accordance with the Record Open. (Exhibit 7, pg. 1). After 5PM on Friday, September 27, 2024, the parties were informed that the Record had closed, the matter was under advisement, and a Decision on the instant appeal would issue. (Exhibit 7, pg. 1)

Findings of Fact

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

1. The Appellant, an individual over the age of 65, filed an application for MassHealth Long-Term-Care Services in a Nursing Facility)
2. A denial, dated June 5, 2024, which is the subject of this appeal, was sent to the Appellant. (Exhibit 1)
3. The Appellant filed an appeal, and a hearing was held on July 15, 2024. (Exhibit 2, Exhibit 3 Testimony)
4. MassHealth listed multiple required items outstanding for MassHealth to make a determination regarding eligibility. (Exhibit 6, Testimony).
5. Specifically, MassHealth required submission of 1) information related to income derived from a specific, named pension 2) information related to a specific, named annuity, 3) information from a specific, named checking account, statements from March 2024 to present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more, 4) information related to the Appellant's intention or expectation to return to the Appellant's residence, 5) information related to a Personal Needs Account, 6) information from a specific, named savings account, statements from January 2023, through present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more 7) information related to a Note 8) information related to a specific, named Irrevocable Trust 9) information related to a different specific, named Irrevocable Trust 10) information

related to real property located in [REDACTED] Massachusetts, 11) information related to real property located in [REDACTED] Massachusetts, 12) resubmission of page 12 of the Application for Long-Term-Care Services 13) information related to a specific life insurance policy, 14) information related to a different specific life insurance policy, 15) information related to an unnamed bank account, with a known account number, information related to the ownership of the account along with statements from September 2022 to present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more, 16) information related to specific, named stocks, 17) information related to an unnamed bank account, with a known account number, information related to the ownership of the account along with statements from September 2022 to present, with an explanation regarding all withdrawals/deposit in the amount of \$1000 or more, 18) an SC-1 form and 19) a Nursing Facility screen. (Exhibit 6, Testimony)

6. The Record was left open until September 6, 2024 for the Appellant to provide the required information and until September 20, 2024 for MassHealth to review. (Exhibit 6).
7. Upon the expiration of the Record Open period for the Appellant, no additional submissions were received.
8. Prior to the expiration of the Record Open period for MassHealth, MassHealth attempted to contact the Appellant's conservator, but learned that the Appellant's conservator was out of the office, scheduled to return on Thursday, September 19, 2024. (Exhibit 7, pgs. 3-4) In an abundance of fairness to the Appellant, it was determined that action on the instant appeal would await the return of the conservator, without objection from MassHealth. (Exhibit 7, pg. 2) However, no response was received from the Appellant's conservator.
9. On Thursday, September 26, 2024, having received no update from the Appellant's conservator, further inquiry was posed to the parties, requesting a status update. (Exhibit 7, pgs. 1-2)
10. On Thursday, September 26, 2024, a read receipt, indicating that that the Appellant's conservator had read the inquiry posted to the parties, was received. (Exhibit 8).
11. On Friday, September 27, 2024, MassHealth confirmed that MassHealth had still not received any submission on behalf of the Appellant in accordance with the Record Open. (Exhibit 7, pg. 1).
12. After 5PM on Friday, September 27, 2024, the parties were informed that the Record had closed, the matter was under advisement, and a Decision on the instant appeal would issue. (Exhibit 7, pg. 1)

Analysis and Conclusions of Law

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). 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 a noninstitutionalized person over the age of 65. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

MassHealth may provide coverage for low- and moderate-income individuals and couples:

515.002: Introduction to MassHealth

(A) The MassHealth agency is responsible for the administration and delivery of health-care services to low- and moderate-income individuals and couples.

(B) 130 CMR 515.000 through 522.000: Other Division Programs provide the MassHealth requirements for persons who are institutionalized, 65 years of age or older, or who would be institutionalized without community-based services in accordance with all applicable laws, including Title XIX of the Social Security Act.

As a threshold to coverage, MassHealth must determine eligibility of an Appellant. In order to determine an Appellant's eligibility, it is incumbent upon an applicant to cooperate with MassHealth and provide necessary information for a determination:

515.008: Responsibilities of Applicants and Members

(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.

Here, MassHealth required additional information to determine eligibility, and despite requests for additional information, ultimately did not receive the information required for the determination. (Testimony, 130 CMR 516.001(B)) A Notice of denial was sent to the Appellant in

accordance with the Regulations. (Exhibit 1, 130 CMR 516.001 (C)).

516.001: Application for Benefits

(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 days 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 request, MassHealth benefits may be denied.

The Appellant chose to appeal, and at the July 15, 2024 Hearing, additional time was granted to provide MassHealth the information necessary to determine the Appellant's eligibility. (Exhibit 6) Upon expiration of the Record Open period for the Appellant, no documentation had been received. Despite receiving no submissions, MassHealth attempted to reach the Appellant's conservator prior to the expiration of the Record Open period for MassHealth, only to learn that the Appellant's conservator was out of the office. (Exhibit 7) The Appellant was afforded additional time to provide an update regarding the status of the outstanding items, but once again, provided no update. On September 26, 2024, additional inquiry was made. (Exhibit 7) Despite confirmation that the inquiry had been read by the Appellant's conservator (Exhibit 8), no update regarding the myriad of missing information was submitted. MassHealth responded that no additional documents were received by MassHealth, and confirmation of the closure of the Record was sent to the parties. (Exhibit 7)

Here, the Appellant has not cooperated with MassHealth to provide the necessary initial information and corroborative information for MassHealth to make a determination regarding eligibility for MassHealth benefits, despite multiple opportunities to do so. Accordingly, the Appellant has not met the burden to show that MassHealth's denial due to its inability to determine eligibility is invalid. Accordingly, 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.

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.

Patrick Grogan
Hearing Officer
Board of Hearings

[REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186