

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2409869
Decision Date:	9/13/2024	Hearing Date:	08/02/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Elizabeth Landry (Taunton MEC) *via* telephone



*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:	Approved in part; Denied in part	Issue:	Long Term Care/Coverage Start Date
Decision Date:	9/13/2024	Hearing Date:	08/02/2024
MassHealth's Rep.:	Elizabeth Landry	Appellant's Rep.:	
Hearing Location:	Taunton MassHealth Enrollment Center	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 May 16, 2024, MassHealth approved the appellant's application for MassHealth long term care (LTC) benefits with a start date of February 1, 2024. (See 130 CMR 516.006 and Exhibit (Ex.) 1, pp. 5-6). The appellant, through her representative, filed this appeal in a timely manner on June 24, 2024. (See 130 CMR 610.015(B) and Ex. 1, p. 2). Determination of the coverage start date is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's application for LTC benefits with a start date of February 1, 2024.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.004; 516.006, in determining that the start date was February 1, 2024.

Summary of Evidence

An eligibility worker from the Taunton MassHealth Enrollment Center (MEC) represented MassHealth and an individual appointed by the appellant's Health Care Proxy represented the appellant. Both representatives attended the hearing by telephone.

The MassHealth representative testified as follows. The appellant, who is over 65 years old and lives in a household of one, was admitted to the nursing facility in the spring of 2023. (Testimony; Ex. 3). MassHealth received a Status Change (SC-1) form from the facility on July 11, 2023. (Testimony; Ex. 5, p. 7). MassHealth sent the facility a request for an application on July 19, 2023, and the facility submitted an application and MassHealth processed it on September 5, 2023. (Testimony; Ex. 5, p. 5). The facility is seeking a coverage start date of May 13, 2023. (Testimony; Ex. 5, p. 7).

The MassHealth representative stated that MassHealth subsequently sent a request for information (VC-1) on September 25, 2023. (Testimony; Ex. 5, p. 5). On January 4, 2024, MassHealth issued a notice denying the application due to missing verifications. (Testimony). The appellant submitted some of the required verifications, leading to the reactivation of the application on January 15, 2024. (Testimony). On April 11, 2024, MassHealth issued a notice denying the appellant's application because her assets exceeded MassHealth's countable asset limit. (Testimony). The appellant spent down her excess assets within 30 days of the denial notice. (Testimony). On May 16, 2024, MassHealth notified the appellant that she was eligible for long-term care benefits starting on February 1, 2024. (Testimony; Ex. 1; Ex. 5, pp. 9-10). According to MassHealth representative, the earliest coverage start date MassHealth could approve was the first day of the third month prior to the month of approval. (Testimony). For that reason, February 1, 2024, was the earliest possible coverage start date, as it marked the beginning of the third month prior to May 2024. (Testimony). A check of the Board of Hearings Appeals Processing System (APS) showed there was no appeal filed regarding the MassHealth denial notice dated January 4, 2024.

The appellant's representative provided testimony addressing several key points. Initially, the representative contested the MassHealth representative's assertion regarding the original application date. (Testimony). According to the appellant's representative, the nursing facility submitted the application on August 31, 2023, as evidenced by fax confirmation showing transmission and receipt at 4:00 p.m. on that day, contrary to claims that it was submitted in September. (Testimony). The appellant's representative submitted documentation to support this subsequent to the hearing. (Ex. 6; Ex. 7).

The representative further explained that MassHealth had issued two notices dated January 4, 2024. (Testimony). One notice was a verification denial mentioned by the MassHealth representative. (Testimony). The other notice indicated that the appellant's application was incomplete and required additional information for determining eligibility for long-term care services. (Testimony). MassHealth included a supplement form that needed to be returned within 30 days. (Testimony). The appellant's representative completed and returned the supplement,

along with requested verifications, by January 10, well within the 30-day period. (Testimony; Ex. 8).

The representative was unaware that not appealing the January 4 denial notice would result in the loss of the original application date. (Testimony). Additionally, while attempting to address asset-related issues with MassHealth, the representative faced challenges due to the inaccessibility of the assigned eligibility worker, which further delayed the determination process. (Testimony). The appellant's representative believed that MassHealth should have preserved the original application date and argued that the nursing facility should not be penalized for MassHealth's delays. (Testimony).

Findings of Fact

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

1. The appellant is over 65 years old and lives in a household of one. (Testimony; Ex. 3).
2. The appellant was admitted to the nursing facility in the spring of 2023. (Testimony).
3. On July 11, 2023, MassHealth received an SC-1 form from the facility. (Testimony; Ex. 5, p. 7).
4. On July 19, 2023 MassHealth sent the facility a request for an application. (Testimony).
5. The facility submitted an application on August 31, 2023 and MassHealth processed it on September 5, 2023. (Testimony; Ex. 5, p. 5; Ex. 6; Ex. 7).
6. The facility is seeking a coverage start date of May 13, 2023. (Testimony; Ex. 5, p. 7).
7. MassHealth sent a VC-1 notice on September 25, 2023. (Testimony; Ex. 5, p. 5).
8. On January 4, 2024, MassHealth issued a notice denying the application due to missing verifications. (Testimony).
9. The appellant submitted some of the required verifications, leading to the reactivation of the application on January 15, 2024. (Testimony; Ex. 8).
10. The appellant did not appeal the January 4, 2024 denial notice. (Testimony).
11. On April 11, 2024, MassHealth issued a notice denying the appellant's application because her assets exceeded MassHealth's countable asset limit. (Testimony).
12. The appellant did not appeal the April 11, 2024 denial but did spend down her excess assets within 30 days. (Testimony).

13. On May 16, 2024, MassHealth issued a notice stating that the appellant was eligible for long-term care benefits starting on February 1, 2024. (Testimony; Ex. 1; Ex. 5, pp. 9-10).

Analysis and Conclusions of Law

To apply for long-term care services in a nursing facility, the individual or their authorized representative must submit a complete Senior Application and Supplements on paper or apply in person at a MEC. (130 CMR 516.001(A)(1)(b)). The application is officially received by MassHealth on the date it arrives. (130 CMR 516.001(A)(2)(a)). An application is considered complete if any additional information MassHealth requests is provided within 30 days of the request. (130 CMR 516.001(A)(2)(b),(C)).

After receiving the application, MassHealth will promptly send a written notice requesting all necessary corroborative information to determine eligibility. (130 CMR 516.001(B)(1),(2)). This notice will specify that the requested information must be submitted within 30 days and will outline the consequences of failing to do so. (130 CMR 516.001(B)(3)). If MassHealth does not receive the requested information within this timeframe, the application may be denied. (130 CMR 516.001(C)).

If an application is denied due to missing information, it can be reactivated if the required information is received within 30 days of the denial. (130 CMR 516.002(A)). The date of receipt of this information will be treated as the new application date, which will replace the original application date. (130 CMR 516.002(A),(B)). The earliest eligibility date will then be based on this new application date. (130 CMR 516.002(B)).

The appellant's August 31, 2023 application was denied on January 4, 2024 and such denial was not appealed. The appellant's application was re-stamped with a controlling application date of January 15, 2024. The appellant's January 15, 2024 application was denied by notice dated April 11, 2024 for excess assets. If a denial is due to excess assets, the date of reapplication is described at 130 CMR 520.004: Asset Reduction. (130 CMR 516.002(D)).

520.004: Asset Reduction

(A) Criteria.

(1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or

(b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility (1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: Date of Application; and (2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes

(130 CMR 520.004).

As noted, the appellant's January 15, 2024 application was denied by notice dated April 11, 2024. MassHealth testified that the appellant's excess assets were spent down within 30 days of that notice. MassHealth did not determine that the appellant violated the resource transfer rules and appears to have based the February 1, 2024 start date on the fact that assets were appropriately spent down, and the appellant would have been otherwise eligible on February 1, 2024. The problem here is that MassHealth used the May 16, 2024 approval date to determine the 3 month retroactive period, rather than the controlling application date of January 15, 2024. Although such re-application was denied in April, such denial was for excess assets and allowed for a retroactive start date if assets were spent down within 30 days of the date of the notice. (130 CMR 520.004(A)(1)(b); 130 CMR 520.004(C)(2)).

Consequently, according to MassHealth regulations, the earliest permissible start date for a January 15, 2024 application is October 1, 2023, which is the first day of the third month prior to the month of application. (130 CMR 516.006(A)). The appellant had the opportunity to potentially secure an earlier coverage start date by appealing the January 4, 2024 denial,

unfortunately, this option was not pursued. The appeal is approved insofar as the appellant's eligibility start date should be October 1, 2023, but is denied in that an earlier date is neither warranted nor allowed under the rules.

For the above stated reasons, the appeal is APPROVED in part and DENIED in part.

Order for MassHealth

Modify the notice dated May 16, 2024 and approve the appellant for MassHealth Standard for long term residents with a start date of October 1, 2023.

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.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

[REDACTED]

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780