

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|--------------|------------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2411585 |
| Decision Date: | 12/3/2024 | Hearing Date: | 08/20/2024 |
| Hearing Officer: | Mariah Burns | Record Open to: | 11/22/2024 |

Appearances for Appellant:



Appearance for MassHealth:

Wilfredo Colon, Charlestown MassHealth
Enrollment Center



*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

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|---------------------------|----------------|---------------------------|--|
| Appeal Decision: | Denied | Issue: | Eligibility; Long-Term Care; Verifications |
| Decision Date: | 12/3/2024 | Hearing Date: | 08/20/2024 |
| MassHealth's Rep.: | Wilfredo Colon | Appellant's Reps.: | |
| Hearing Location: | Remote | 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 July 18, 2024, MassHealth denied the appellant's application for MassHealth long-term care benefits because MassHealth determined that the appellant did not provide the required information to determine his eligibility. *See* 130 CMR 515.008 and Exhibit 1. The appellant filed this appeal in a timely manner on July 26, 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 long-term care benefits.

Issue

The appeal issue is whether MassHealth acted within the scope of the regulations in denying the appellant's application for long-term care benefits.

Summary of Evidence

The appellant is an adult who currently resides in a skilled nursing facility. He was represented at

the hearing by a Medicaid eligibility specialist from the facility. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. The following is a summary of the testimony and evidence provided at hearing.

The appellant submitted an application for MassHealth long-term care benefits on April 1, 2024. MassHealth sent a request for information on April 11, 2024, with a due date of July 10, 2024. When the appellant did not comply with the request for information, MassHealth denied his application on July 18, 2024. As of the date of hearing, the following information was still outstanding:

- Current face and cash surrender value of [REDACTED]
- Updated Personal Needs Account (PNA) Statement;
- [REDACTED] verification of sources of all deposits except for Social Security Income, verification of any withdrawals of \$1000.00 or more; verification of withdrawals for 4/24/2023, 5/26/2023¹, and 6/9/2023 with proof of bills and/or expenses for those withdrawals, statements for 2/22/2024-3/21/2024 and 12/1/2023-1/23/2024.

The appellant's representative agreed that the verifications reported by the MassHealth representative were still outstanding. The record was initially kept open until September 24, 2024, with the appellant being granted several extensions over MassHealth's objection. The record ultimately closed on November 22, 2024; the appellant requested an additional extension, which was denied.

As of the closing of the record, the appellant submitted several documents that, according to the MassHealth representative, satisfied the request for an updated PNA Statement. The appellant also submitted 71 pages worth of documents from [REDACTED] that verify that the withdrawal on 6/9/2023 went towards the appellant's private pay expenses at the facility. However, no evidence was provided as to the 4/24/2023 and 5/26/2023 withdrawals, nor were any statements from 2/22/2024-3/21/2024 and 12/1/2023-1/23/2024 included. The appellant also provided statements from a [REDACTED] that show that the policy was cashed out and paid towards the appellant's private pay expenses. The appellant provided no information regarding a [REDACTED] life insurance policy beyond stating that his representatives were having difficulty finding one.

¹ The request for information states that the withdrawal is from 6/8/2023, but the bank statements show that it occurred on 5/26/2023. See Exhibit 6 at 41.

Findings of Fact

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

1. The appellant is an adult who currently resides in a skilled nursing facility. Testimony, Exhibit 4.
2. On April 1, 2024, the appellant submitted an application for MassHealth long-term care benefits. Testimony, Exhibit 1.
3. On April 11, 2024, MassHealth sent a request for information for certain information needed to determine the appellant's eligibility for benefits with a due date of July 10, 2024. Testimony, Exhibit 5 at 4.
4. When MassHealth did not receive all requested information, a denial notice was sent on July 26, 2024. Testimony, Exhibit 1.
5. The appellant filed a timely request for fair hearing on July 26, 2024. Exhibit 2.
6. As of the date of the hearing, the following requested information is still outstanding:
 - Current face and cash surrender value of [REDACTED]
 - Updated Personal Needs Account (PNA) Statement;
 - [REDACTED]: verification of sources of all deposits except for Social Security Income, verification of any withdrawals of \$1000.00 or more; verification of withdrawals for 4/24/2023, 5/26/2023, and 6/9/2023 with proof of bills and/or expenses for those withdrawals, statements for 2/22/2024-3/21/2024 and 12/1/2023-1/23/2024.

Testimony, Exhibit 1.

7. The record was kept open for the appellant to provide the requested information and was extended at the appellant's request, over MassHealth's objection, on multiple occasions. Exhibit 7 at 2-3, 8, 9-10. As of the closing of the record open period on November 22, 2024, the parties agreed that the appellant submitted documents to satisfy the request regarding the appellant's PNA statement and the 6/9/2023 withdrawal from his [REDACTED]. Exhibit 6 at 41, 87-91.

8. The appellant provided no [REDACTED] statements from 2/22/2024-3/21/2024 and 12/1/2023-1/23/2024, nor any information regarding the 4/24/2023 and 5/26/2023 withdrawals. Exhibit 6 at 1-86. Nothing regarding payments made on those dates was included in the updated PNA statement. Exhibit 6 at 97-91.

9. The appellant submitted information regarding a [REDACTED] insurance policy ending in 459 that shows that the policy was cashed out and paid towards the appellant's private pay expenses. Exhibit 6 at 85-86. The appellant provided no information regarding a [REDACTED] life insurance policy beyond stating that his representatives were having difficulty finding one. Exhibit 7 at 2.

Analysis and Conclusions of Law

An applicant for any MassHealth benefits is required to "cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility..." 130 CMR 515.008(A). After receiving an application for benefits, MassHealth proceeds as follows:

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.

130 CMR 516.001(B). "If the requested information...is received [by MassHealth] within 30 days of the date of the request, the application is considered complete...If such information is not received within 30 days of the request, MassHealth benefit may be denied." 130 CMR 516.001(C).

MassHealth applicants must meet certain financial requirements to be eligible for long-term care services. Specifically, there is a \$2000 asset limit for an individual and a \$3000 limit for certain couples living together in the community. See 130 CMR 520.003(A). Such assets include "deposits in a bank, savings, and loan institution, checking, or trust accounts, term certificates, or other types of accounts." 130 CMR 520.007(B)(1). Certain vehicles and life insurance policies can also be considered countable assets. See 130 CMR 520.007(E) and (F). Members are further expected to contribute a certain amount of their income towards the cost of their care. See 130 CMR 519.006(A)(3).

An appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon "evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency's interpretation of its rules, policies and regulations." 130 CMR 610.085(A). In this case, the appellant must show that he has satisfied the outstanding requests for information that

MassHealth needs to make an eligibility determination. After reviewing the evidence, I find that he has not met that burden.

The parties agree that the appellant has satisfied the request for an updated PNA statement, and it would appear that the request regarding the 6/9/2024 payment to the facility was also satisfied. However, I was unable to find any documents that satisfy the remaining requests in the appellant's submitted evidence. It does not appear that the appellant's representatives introduced any statements for 2/22/2024-3/21/2024 and 12/1/2023-1/23/2024, nor any verifications regarding the 4/24/23 and 5/26/23 withdrawals. Additionally, although the appellant correctly points out that the last four digits of the New York Life insurance policy and those of the Liberty Mutual policy referenced by MassHealth are the same, he did not provide any information that such a Liberty Mutual policy does not exist or documentation that would otherwise satisfy the request. As such, I find that the appellant has not satisfied MassHealth's request for information during the pendency of the appeal, and therefore I find no error with the issuance of the July 18, 2024, notice denying the appellant's application for MassHealth long-term care benefits.

For the foregoing reasons, the appeal is hereby 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc: Appellant Representative: [REDACTED]

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center