

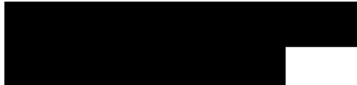
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411920
Decision Date:	10/4/2024	Hearing Date:	9/04/2024
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Patricia Rogers, Taunton 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:	Long Term Care Eligibility, Coverage Date
Decision Date:	10/4/2024	Hearing Date:	09/04/2024
MassHealth's Rep.:	Patricia Rogers	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 July 17, 2024, MassHealth approved the Appellant's application for MassHealth Standard benefits to cover Long-Term-Care Services in a Nursing Facility with a coverage date beginning March 1, 2024 (see 130 CMR 456 and Exhibit 1). The Appellant filed this Appeal in a timely manner on July 31, 2024. (see 130 CMR 610.015(B) and Exhibit 2). Imposition of a coverage date is a MassHealth action and is valid grounds for appeal (see 130 CMR 610.032(3)).

Action Taken by MassHealth

MassHealth approved the Appellant for MassHealth Standard benefits to cover Long-Term-Care Services in a Nursing Facility, with coverage beginning on March 1, 2024.

Issue

The issue the Appellant is seeking to appeal is whether MassHealth was correct, pursuant to 130 CMR 456 and 130 CMR 516, in determining that coverage for the member begins March 1, 2024

Summary of Evidence

The Appellant is a MassHealth member over the age of 65 who was approved for MassHealth Standard benefits to cover Long-Term-Care Services in a Nursing Facility with a coverage date beginning March 1, 2024 (see 130 CMR 456 and Exhibit 1). MassHealth testified that MassHealth received a Long-Term Care Conversion request with a Long-Term Care Screen and SC-1 on August 2, 2023. (Testimony, Exhibit 6) MassHealth stated a conversion packet with application was sent to the Appellant's resident nursing facility on August 10, 2024. (Testimony) MassHealth testified that on January 25, 2024, an 8-page fax was received by MassHealth, and only 2 of the pages included any portion of the application for MassHealth Long-Term Care coverage. (Testimony, Exhibit 6). On February 15, 2024, MassHealth contacted the Appellant's Representative regarding the receipt of the incomplete application. (Testimony). On April 1, 2024, MassHealth received the Long-Term Care Supplement, not the completed application. (Testimony, Exhibit 6) On June 11, 2024, MassHealth received the completed application for MassHealth Long-Term Care coverage. (Testimony). The application was processed, and the Appellant was approved on July 17, 2024, with a start date of March 1, 2024, based upon the date the application was received (June 11, 2024) pursuant to 130 CMR 516.006(2). (Testimony)

The Appellant, through the Appeal Representative and witness, testified that they had turned over whatever was needed when it was requested. (Testimony) The Appeal Representative and witness explained that they had worked with the nursing facility in which the Appellant is currently residing. (Testimony). The Appeal Representative and witness stated that they had mailed documents to the PO Box on the envelope or provided them to the nursing facility where the Appellant currently resides. (Testimony) The Appeal Representative and witness confirmed that they did not have any proof of mailings, beyond the proffered testimony. (Testimony) The Appeal Representative and witness expressed concerns with the facility's staff's understanding of the MassHealth application process. (Testimony) Although the facility was taking good care of the Appellant, the Appeal Representative and witness had concerns regarding the facility's knowledge of the MassHealth application process. (Testimony)

MassHealth confirmed that after sending the initial application package to the nursing facility in which the Appellant is currently residing on August 10th of 2023, no further documentation was received on behalf of the Appellant until January of 2024. (Testimony) MassHealth testified that each time something inaccurate or incomplete was received, MassHealth reached out to the Appeal Representative. (Testimony) MassHealth confirmed that the completed application on behalf of the Appellant was not received until June 11, 2024. (Testimony)

Findings of Fact

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

1. The Appellant is a MassHealth member over the age of 65 who was approved for MassHealth Standard benefits to cover Long-Term-Care Services in a Nursing Facility with a coverage date beginning March 1, 2024 (see 130 CMR 456 and Exhibit 1).
2. MassHealth received a Long-Term Care Conversion request with a Long-Term Care Screen and SC-1 on August 2, 2023. (Testimony, Exhibit 6)
3. A conversion packet with application was sent to the Appellant's resident nursing facility on August 10, 2024. (Testimony)
4. On January 25, 2024, an 8-page fax was received by MassHealth, and only 2 of the pages included any portion of the application for MassHealth Long-Term Care coverage. (Testimony, Exhibit 6).
5. On April 1, 2024, MassHealth received the Long-Term Care Supplement, not the completed application. (Testimony, Exhibit 6)
6. On June 11, 2024, MassHealth received the completed application for MassHealth Long-Term Care coverage for the Appellant. (Testimony). The application was processed, and the Appellant was approved on July 17, 2024, with a start date of March 1, 2024. (Testimony)

Analysis and Conclusions of Law

When a member applies for long-term-care services in a nursing facility, the member must first be assessed for eligibility:

519.006: Long-term-care Residents

(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must

- (1) be younger than 21 years old or 65 years of age or older, or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing-facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;

- (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets when One Spouse is Institutionalized; and
- (5) not have transferred resources for less than fair market value as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

In the instant appeal, the Appellant was approved for MassHealth Standard benefits to cover Long-Term-Care Services in a nursing facility. (Testimony, Exhibit 1)

456.407: Clinical Authorization of Nursing-facility Services

(D) If the Mass Health agency determines that a member is eligible for nursing-facility services, the MassHealth agency will issue a notice that contains the effective date of coverage and the patient-paid amount. This notice is confirmation to the facility that the MassHealth agency has authorized payment of nursing-facility services for the member.

Here, the effective date of coverage was determined to begin on March 1, 2024. (Testimony, Exhibit 1). This is based upon an Application for Long-Term Care received on June 11, 2024, which can only preserve an eligibility date three months prior. (Testimony, Exhibit 1, Exhibit 6) The MassHealth Eligibility section, found at 130 CMR 516, expressly states when an eligibility determination may begin:

516.006: Coverage Date

(A) Start Date of Coverage.

(1) For individuals applying for coverage, the date of coverage for MassHealth is determined by the coverage type for which the applicant may be eligible. 130 CMR 519.000: MassHealth: Coverage Types describes the rules for establishing this date.

(2) The begin date of MassHealth Standard, Family Assistance, or Limited coverage ***may be retroactive to the first day of the third calendar month before the month of application***, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided. If more than one application has been submitted and not denied, the begin date will be based on the earliest application that is approved. Retroactive eligibility does not apply to services rendered under a home- and community-based services waiver provided under section 1915(c) of the Social Security Act. (Emphasis added)

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). In the instant appeal, the Appellant's eligibility has been approved, retroactive, to March 1, 2024. The Appellant seeks a retroactive application of MassHealth Standard beyond the third calendar month before the month of the receipt of the application to cover from August of 2023 through the start date of coverage, March 1, 2024. However, the Financial Eligibility section of the Regulations, 130 CMR 520, explains the requirements and limitation of eligibility:

520.001: Introduction to General Financial Requirements

(A) 130 CMR 520.000 describes the rules governing financial eligibility for MassHealth. 130 CMR 520.000 is based on financial responsibility, countable income, and countable assets.

(B) The methods for the calculation of the countable-income amount, the deductible, and the income standards used in the determination of eligibility are also explained in 130 CMR 520.000.

Moreover, the Asset Reduction section of the Financial Eligibility section, explicitly limits the retroactive application of an eligibility date:

520.004: Asset Reduction

(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. (*Emphasis added*)

Although MassHealth Standard benefits for Long-Term-Care Services in a Nursing Facility may be retroactive to the first day of the third calendar month before the month of application, "in no event will the first day of eligibility be earlier than the first date of the third month before the date of application." The Appellant, through the Appeal Representative and witness, has provided evidence of the Appellant's confusion of when the application was filed, when it was processed, and the general confusion regarding the eligibility process. This general confusion does

not invalidate that administrative determination by MassHealth which comports with the explicit dictates of 130 CMR 516.006 as well as the other MassHealth controlling Regulations.

There is no authority for retroactive application beyond 3 calendar months based upon the evidence presented in this case. The general confusion with the application process and the reliance on the nursing facility does not invalidate MassHealth's administrative determination, where MassHealth never received a completed application until June 11, 2024. MassHealth's determination comports with strict adherence to the MassHealth Regulations. 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

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616