

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2412407
Decision Date:	9/16/2024	Hearing Date:	09/09/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Alexsandra DeJesus



*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:	Eligibility; Long Term Care
Decision Date:	9/16/2024	Hearing Date:	09/09/2024
MassHealth's Rep.:	Alexsandra DeJesus	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone		

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 17, 2024, MassHealth denied the appellant's application for long-term care benefits for failure to provide information necessary to determine eligibility within the required timeframe. (130 CMR 516.001; Exhibit 1). The appellant's health care proxy filed a timely appeal on August 12, 2024 naming two individuals from the long-term care facility as appeal representatives. (130 CMR 610.015(B); Exhibit 2; Exhibit 3). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for failure to provide information necessary to determine eligibility within the required timeframe. (130 CMR 516.001).

Issue

Whether MassHealth was correct in denying the appellant's application for failure to provide information necessary to determine eligibility within the required timeframe.

Summary of Evidence

MassHealth received an application for long-term care on February 15, 2024 seeking coverage as of November 4, 2024. A Health Care Proxy was executed in May 2009 and invoked in December 2023.

On March 13, 2024, MassHealth issued a notice seeking information necessary to determine eligibility. MassHealth provided the appellant more than 90 days to provide the information. On June 17, 2020, MassHealth denied the application for failure to provide information necessary to determine eligibility. A request for hearing was filed on August 12, 2024 and a hearing was held on September 9, 2024.

At hearing, the appellant's representative acknowledged that they did not have all of the information necessary to determine eligibility. The appellant's representative stated that she has been working with the appellant's health care proxy who is over the age of 70 and works full-time. The appellant's representative asked for additional time to provide the information necessary to determine eligibility. The appellant's representative did not have anything at the time of the hearing to offer to MassHealth or the Board of Hearings. The appellant's representative stated that she may receive additional information later in the day but acknowledged that it would not be all of the information listed on the information request sent in March 2024.

When asked to provide testimony or evidence regarding the need for additional time, the appellant's representative stated that she did not have anything else to offer other than stating that she has been working with the appellant's health care proxy to try and obtain the necessary information. The appellant's representative noted that she has had several hearings over the years, understood the hearing process but did not understand what additional testimony or evidence the hearing officer was seeking in asking about any actions taken to obtain the information, possible reasons for it not being received and any other testimony or evidence related to the reason for the appeal other than to obtain additional time to complete an application that was submitted in February 2024. The request to keep the record open was denied.

Findings of Fact

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

1. MassHealth received an application for long-term care in February 2024 seeking coverage as of November 4, 2024.
2. The appellant had a health care proxy invoked in December 2023.

3. The appellant's health care proxy participated in the application process.
4. On March 13, 2024, MassHealth issued a notice seeking information necessary to determine eligibility.
5. On June 17, 2024, MassHealth denied the application for failure to provide information necessary to determine eligibility within the required timeframe.
6. As of September 9, 2024, MassHealth had not received information necessary to determine eligibility.

Analysis and Conclusions of Law

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 an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 515.008, applicants or members must cooperate with MassHealth in providing information to establish and maintain eligibility and must comply with all of the rules and regulations governing MassHealth, including recovery. MassHealth may request additional information and documentation, if necessary, to determine eligibility. (130 CMR 516.001).

To obtain the necessary information and documentation, MassHealth sends the applicant written notification requesting verifications to corroborate information necessary to determine eligibility, generally within five days of the receipt of the application. (130 CMR 516.001(B)). The notice advises the applicant that the requested verifications 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)). Under the regulations, if the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied. (130 CMR 516.001(C)). In March 2023, to align timelines for Modified Adjusted Gross Income (MAGI) and non-MAGI populations, MassHealth extended the number of days for non-MAGI members and applicants to send MassHealth verifications and information necessary for an eligibility determination from 30 days to 90 days. (Eligibility Operations Memo 23-09).

In this case, the appellant was provided with the appropriate 90 days to provide the information necessary for an eligibility determination. As of the date of the notice on appeal

and hearing date, the appellant had not provided that information. The appellant's representative did not dispute the fact that the appellant received proper notices requesting information. (130 CMR 516.001).

The fair hearing regulations at 130 CMR 610.000 set out the process for requesting and participating in a fair hearing that allows dissatisfied applicants, members, or nursing facility residents to have administrative review of certain actions or inactions on the part of the MassHealth agency. (130 CMR 610.001(A)(1)). The fair hearing process is an administrative, adjudicatory proceeding where dissatisfied applicants, members, and nursing facility residents upon written request, obtain an administrative determination of the appropriateness of:

- (1) certain actions or inactions by the MassHealth agency;
- (2) certain actions or inactions by a managed care contractor;
- (3) actions to recover payment for benefits to which the member was not entitled at the time the benefit was received;
- (4) alleged coercive or otherwise improper conduct by a MassHealth agency employee;
- (5) a notice of intent or failure to give notice of intent by a nursing facility to discharge, transfer, or readmit a resident; or
- (6) a PASRR determination. (130 CMR 610.012(A)).

The hearing process is designed to secure and protect the interests of both the appellant and, as appropriate, the MassHealth agency or its personnel and to ensure equitable treatment for all involved. (130 CMR 610.012(B)). The definition of the hearing process does not indicate that it is a means to extend the application process for members or representatives as was sought at this hearing. To ensure equitable treatment, both parties should be prepared to offer testimony and evidence at the hearing. (130 CMR 610.012(B)). Statements by the appellant's representative about their years of experience in the application and fair hearing process demonstrates that they are knowledgeable and should be prepared to present relevant testimony and evidence at hearing.

A hearing decision is based upon evidence, testimony, materials, and legal rules, presented at the hearing, including the MassHealth agency's interpretation of its rules, policies, and regulations. (130 CMR 610.082(A)). The decision must be based upon a preponderance of evidence. (130 CMR 610.082(A)). As noted above, the appellant's representatives did not have anything to present to MassHealth or the Board of Hearings prior to or at hearing regarding the issue on appeal other than an acknowledgement that they did not have the information necessary for MassHealth to determine eligibility as of the day of the hearing.

This appeal is denied as MassHealth acted within its discretion to deny the appellant's application for long-term care coverage and the appellant's representative failed to demonstrate by a preponderance of the evidence that the agency's action was inappropriate. (130 CMR 516.001(C); 130 CMR 610.012(B); 130 CMR 610.082(B))

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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