

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2412408
Decision Date:	11/4/2024	Hearing Date:	09/09/2024
Hearing Officer:	Casey Groff		

Appearance for Appellant:



Appearance for MassHealth:

Jenya Kruglansky, Tewksbury 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

Appeal Decision:	Denied	Issue:	Eligibility; Over 65; Community; Verifications
Decision Date:	11/4/2024	Hearing Date:	09/09/2024
MassHealth's Rep.:	Jenya Kruglansky	Appellant's Rep.:	Daughter
Hearing Location:	Board of Hearings (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 7/23/24, MassHealth informed Appellant that his Standard with Buy-In benefit would end on 8/6/24 because it determined that he did not submit requested verifications within the required timeframe. See Exhibit 1. Appellant filed this appeal in a timely manner on 8/12/24 and designated his daughter as his appeal representative. See 130 CMR 610.015(B) and Exhibit 2. Denial and/or termination of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth ended Appellant's Standard with Buy-In benefit on 8/6/24 because it determined that he did not submit required verification to determine eligibility within the required timeframe.

Issue

The appeal issue is whether MassHealth was correct in terminating Appellant's Standard with Buy-In coverage for failure to provide required verification of eligibility.

Summary of Evidence

A MassHealth representative testified that Appellant is over the age of 65 and lives in the community. Appellant and his wife previously submitted a joint application for MassHealth benefits through which they reported that they were "legally married." Based on this prior application, Appellant was approved for MassHealth Standard with Buy-in. On 4/16/24, MassHealth received a renewal application from Appellant with a PCA supplement. In the 4/16/24 application, Appellant checked off a box to indicate that he was "not legally married" and left the section pertaining to spousal information empty. On 4/18/24, MassHealth processed the application and mailed out a request for information (RFI) seeking verifications due by 7/17/24. The RFI sought updated bank statements, as well as a copy of a divorce decree to verify that Appellant was no longer legally married. As not all verifications were received by the due date, MassHealth issued a notice dated 7/23/24, informing Appellant that his Standard with Senior Buy-In coverage would end on 8/6/24 for failure to give MassHealth the "required information needed to determine [his] eligibility within the required timeframe [under] 130 CMR 515.008." See Exh. 1. The notice informed Appellant that it had not received either the requested bank statements or the divorce decree. Id. On 8/30/24, prior to this hearing, MassHealth received some of the outstanding verifications, as well as a self-attested statement from Appellant that he and his wife no longer live together, and that he does not know her whereabouts. The MassHealth representative testified that its system has received multiple electronic data matches showing that Appellant and his wife currently live at the same address, including information showing that they both received benefits from the Department of Transitional Assistance (DTA) until as recently as 7/1/24 when their DTA case closed. Given that all records show them living at the same address, MassHealth cannot proceed to determine eligibility without verification of divorce, or, at a minimum, proof that they reside at different addresses, such as a utility bill.

Appellant's daughter appeared on behalf of Appellant as his appeal representative. The daughter testified that Appellant and his wife (who is her mother) are separated, but there are no legal papers to support this. Her mother owns a triple decker home, which has multiple units as reflected by its street address of [REDACTED]. Appellant resides with other family members in the first-floor unit [REDACTED] and his wife lives on 2nd floor [REDACTED]. They have been living apart for approximately one year. Appellant's representative offered to provide a notarized statement asserting that they are separated and not living together. Appellant's representative indicated she did not believe they would have utility bills to reflect they are living at two different addresses. Appellant's representative testified that, in the past, Appellant was ineligible for benefits when MassHealth counted both their assets and income together. She felt it was not fair that MassHealth would count their finances together, even though they maintain their finances

separately. Appellant's representative expressed frustration because it was unclear how she could resolve this issue when there is no legal documentation of divorce and where MassHealth would not accept a notarized statement. Appellant's daughter testified that Appellant had not incurred any medical expenses since his benefit ended on 8/6/24.

In response, the MassHealth representative testified that MassHealth determines what verifications are needed based on what information the applicant reports on the application. Here, Appellant reported that he was not legally married. Through its multiple verification systems and through Appellant's past application, MassHealth records show that Appellant and his wife are both living at the [REDACTED] address. Because they have the same address, MassHealth cannot accept a verbal or written attestation of residency or separation. It would need, at a minimum, documentation such as utility bills for both Appellant and his wife being sent to different address, or alternatively court papers to show they are no longer legally married to remove her from Appellant's case. Hypothetically, if Appellant changed his application to reflect, he was married and living with his spouse, he would not be required to produce this verification; however, MassHealth would determine continued eligibility based on both spouses' income and assets. Based on the current income and asset information on file for the spouse, Appellant would be ineligible for his current benefit. MassHealth clarified, however, that Appellant's benefit ended not because of any financial eligibility determination, but because MassHealth did not receive necessary verifications to proceed with determining eligibility.

Findings of Fact

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

1. Appellant and his wife previously submitted a joint application for MassHealth benefits through which they reported that they were "legally married;" based on this application, Appellant was approved for MassHealth Standard with Buy-in.
2. In a renewal application that MassHealth received on 4/16/24, Appellant reported that he was "not legally married," and left the section pertaining to spousal information empty.
3. On 4/18/24, MassHealth issued an RFI, seeking, among other items, verification of divorce, due by 7/17/24.
4. As not all verifications were received by the due date, including verification of divorce, MassHealth notified Appellant, through a letter dated 7/23/24, that his Standard with Senior Buy-In coverage would end on 8/6/24 for failure to give MassHealth the "required information needed to determine [his] eligibility within the required timeframe [under] 130 CMR 515.008."

5. On 8/30/24, MassHealth received some of the outstanding verifications, as well as a self-attested statement from Appellant that he and his wife no longer live together, and that he does not know her whereabouts.
6. MassHealth has received multiple electronic data matches showing that Appellant and his wife currently live at the same address, with [REDACTED] as the number of their street address.
7. Until 7/1/24, both Appellant and his wife received DTA benefits at the shared address.
8. Appellant does not have legal documentation to verify that he is divorced or separated, nor is he able to provide independent documentation to corroborate that he and his wife live at separate addresses.

Analysis and Conclusions of Law

MassHealth provides access to health care by determining eligibility for the coverage type that provides the most comprehensive benefits for a person who may be eligible. See 130 CMR 515.003(A). The type of coverage for which a person is eligible is based on the person's and the spouse's income and assets, as well as residency and other eligibility factors. See 130 CMR 515.003(B).

Once an application is received and processed, MassHealth will request all corroborative information necessary to determine whether the applicant is eligible for medical assistance. See 130 CMR 516.001. This process, as outlined in 130 CMR 516.001(B), provides the following:

- (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 [90] days of the date of the request, and of the consequences of failure to provide the information.¹

In accordance with the request for information, the applicant must provide complete and accurate information to MassHealth regarding their household composition, household income, and other information needed to determine the applicant's eligibility for benefits.² It is the

¹ On April 1, 2023, MassHealth extended the time limit for producing verifications from 30 days to 90 days. See Eligibility Operations Memo 23-09 (March 2023).

² MassHealth regulations at 130 CMR 520.002, which governs financial eligibility and responsibilities of community residents, provides, in relevant part, the following: (1) Spouses Living Together. In the determination of eligibility for MassHealth, the total countable-income amount and countable assets of the individual and the spouse who are

responsibility of the applicant to “cooperate with MassHealth in providing information necessary to establish eligibility... and to comply with all the rules and regulations of MassHealth.” 130 CMR 515.008. If the requested information is “received within [90] days of the date of the request, the application is considered complete [and] MassHealth will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible.” See 130 CMR 516.001(C). If the requested information is not received by the regulatory deadline, “MassHealth coverage will be denied.” See 130 CMR 516.003(D)(2); see also 130 CMR 516.001(C).

After receiving Appellant’s application on 4/16/24, MassHealth, in accordance with 130 CMR 516.001(B), notified Appellant of the verifications he needed to submit by 7/17/24 for MassHealth to determine his continued eligibility for benefits. The notice advised Appellant that because he designated himself as “not legally married,” where he previously reported he was married, he needed to provide MassHealth with proof of divorce, such as a divorce decree. When MassHealth did not receive this information by the deadline, it appropriately notified Appellant, via its 7/23/24 letter, that it was unable to determine his eligibility for continued benefits, and, on this basis, his coverage would end on 8/6/24. See Exhibit 1; 130 CMR 516.003(D)(2); see also 130 CMR 516.001(C).

At the hearing, Appellant’s representative testified that Appellant is separated and living apart from his wife, but because they are not legally divorced, he does not have the requested court paperwork to provide to MassHealth. Appellant’s representative also explained that, aside from her testimony, she did not believe she could provide documentation, such as a utility bill, to prove that Appellant and his spouse lived at separate addresses. Given that Appellant previously identified as “married,” as well as the fact that MassHealth received electronic data matches showing Appellant and his spouse live at the same address, MassHealth appropriately requested independent documentation to corroborate his claim that he not legally married and/or is living apart from his spouse. As this information was not provided, Appellant failed to meet her burden of proof in demonstrating that MassHealth’s 7/23/24 decision was incorrect. See 130 CMR 515.008 and 130 CMR 516.001(C); see also Craven v. State Ethics Comm’n, 390 Mass. 191, 200 (1983)(“[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings”).

Based on the foregoing, this appeal is DENIED.³

living together are compared to an income standard and asset limit, unless one spouse is covered by MassHealth under a home- and community-based service waiver, as described in 130 CMR 519.007(B): *Home-and Community-based Services Waiver-Frail Elder*. (2) Spouses Living Apart When spouses live apart for reasons other than admission to a medical institution, their assets and income are considered mutually available only through the end of the calendar month of separation.

³ Appellant may still provide MassHealth with the outstanding verification for it to determine eligibility without consideration of the spouse’s income and assets; or if applicable, can resubmit an application reflecting a different marital status and provide information regarding his spouse.

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.

Casey Groff
Hearing Officer
Board of Hearings

[REDACTED]

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957