

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2412571
<b>Decision Date:</b>	10/28/2024	<b>Hearing Date:</b>	09/10/2024
<b>Hearing Officer:</b>	Scott Bernard	<b>Record Open to:</b>	

**Appearance for Appellant:**



**Appearance for MassHealth:**

Elizabeth Kittiphane (Quincy 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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Long Term Care (LTC)-Verifications
<b>Decision Date:</b>	10/28/2024	<b>Hearing Date:</b>	09/10/2024
<b>MassHealth's Rep.:</b>	Elizabeth Kittiphane	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 June 17, 2024, MassHealth denied the appellant's application for Long Term Care (LTC) benefits because it determined that the appellant failed to submit requested verifications within the required time frame. (See 130 CMR 516.001 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on August 15, 2024. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the conclusion of the hearing, the record was left open until October 17, 2024 for the appellant's attorney to submit further verifications and for the MassHealth representative to review those verifications, after which time the record closed. (Ex. 7; Ex. 8; Ex.9).

### Action Taken by MassHealth

MassHealth denied the appellant's application for LTC benefits for failure to submit requested verifications.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 508.008 and 516.001, in determining that the appellant failed to submit requested verifications.

## Summary of Evidence

The hearing was attended telephonically by an eligibility worker from the Quincy MassHealth Enrollment Center (MEC) and the appellant's authorized representative.

The MassHealth representative testified to the following. The appellant is under the age of 65. (Testimony; Ex. 4; Ex. 6, p. 3). MassHealth received the appellant's application for LTC services on March 5, 2024. (Testimony; Ex. 6, p. 3). MassHealth sent the appellant a request for information on March 14, 2024 asking that she submit requested verifications by June 12, 2024. (Testimony; Ex. 6, pp. 4-6). MassHealth did not receive all the requested verifications by June 12, and for that reason MassHealth sent the appellant the denial notice on June 17, 2024. (Testimony; Ex. 1). The denial notice listed two verifications that had not been submitted. (Testimony; Ex. 1). As of the day of the hearing, the only verification that had not been submitted concerned where the appellant's Social Security income was being deposited. The MassHealth representative noted that if that income was being deposited into a bank account, including a Direct Express account, statements for that account from March 2023 to the present, as well as an explanation of all transactions of \$1,500 and over, needed to be submitted. (Testimony).

The appellant's representative testified to the following. The nursing facility did not presently know where the appellant's Social Security check was being deposited. (Testimony). Prior to the hearing, the appellant left the facility against medical advice and had not given the facility any authority to speak directly with Social Security to ask where her benefits were being deposited. (Testimony). For that reason, the nursing facility has hired an attorney to perform a property and a next of kin search for the appellant. (Testimony). The attorney's office was in the midst of performing a nationwide bank search to see if the appellant has an account in a different state. (Testimony). Additionally, since the nursing facility suspects that the appellant might be sending her Social Security check to her sister, they are investigating the sister as well. (Testimony). The appellant's representative stated that the attorney asked that the record be held open while this search was completed. (Testimony). The appellant's representative stated that if the attorney did find that the appellant has an account in a different state, they would then potentially ask for a subpoena to be issued for the records for such account. (Testimony).

The record was left open to allow the appellant's representative to identify where the appellant's Social Security income was being deposited and to submit statements from that depository from June 2023 to the present with an explanation of all transactions of \$1,500 and greater. (Ex. 7). The MassHealth representative agreed to respond by October 17, 2024. (Id.).

Pursuant to the record open, the appellant's representative emailed MassHealth and the hearing officer the following:

This is the email I received from our Attorney, and I have attached the documents that were emailed to me.

Attached please see the results of the bank account search. Our investigator could not locate any accounts for [the appellant]. Because we suspected she may have been depositing her income into her sister's account, we also performed a search on her sister [name of sister]. Our investigator could not find any accounts for the sister either. Attached are the reports from our private investigator. Please note these searches are for any and all accounts nationwide. (Ex. 8, p. 1).

The appellant's representative attached a copy of the two confidential reports from the private investigator. (Ex. 8, pp. 2-5). The first indicated that on September 10, 2024, a nationwide search was performed using the appellant's name, date of birth, Social Security Number, and an address in Puerto Rico, none of which revealed any bank accounts, brokerage accounts, or safe deposit boxes associated with those pieces of information. (Ex. 8, pp. 2-3). The second showed that a nationwide bank search using the name of the appellant's sister was performed on September 17, 2024 and did not show any active accounts were located under her name. (Ex. 8, p. 4).

The MassHealth representative responded in an email that based on this information, MassHealth would continue to uphold the June 17 denial because it required the information about where the appellant's Social Security income was being deposited and that without this information, MassHealth could not determine how the appellant would pay the patient-paid amount. (Ex. 9, p. 1).

## **Findings of Fact**

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

1. The appellant is an individual under the age of 65. (Testimony; Ex. 4; Ex. 6, p. 3).
2. MassHealth received the appellant's application for LTC services on March 5, 2024. (Testimony; Ex. 6, p. 3).
3. MassHealth sent the appellant a request for information on March 14, 2024 asking she submit requested verifications by June 12, 2024. (Testimony; Ex. 6, pp. 4-6).
4. Since MassHealth did not receive all the requested verifications by June 12, 2024, MassHealth sent the appellant the denial notice on June 17, 2024. (Testimony; Ex. 1; Ex. 6, pp. 8-10).
5. The denial notice listed two verifications that had not been submitted. (Testimony; Ex. 1; Ex. 6, pp. 8-10).
6. As of the day of the hearing, the only verification that had not been submitted concerned where the appellant's Social Security income was being deposited, and, if that income was

being deposited into a bank account, statements for that account from March 2023 to the present, as well as an explanation of all transactions of \$1,500 and over. (Testimony).

7. Prior to the hearing, the appellant left the facility against medical advice and had not given facility any authority to speak directly with Social Security to ask where her benefits are being deposited. (Testimony).
8. The nursing facility did not presently know where the appellant's Social Security check was being deposited. (Testimony).
9. The nursing facility hired an attorney to conduct a property and next of kin search for the appellant, perform a nationwide bank search for her accounts, investigate her sister due to suspicions about where the appellant's Social Security check was being deposited, and asked that the record be held open to allow them to complete the searches. (Testimony; Ex. 7; Ex. 8; Ex. 9.).
10. The record closed after the appellant's representative submitted a report from the attorney and their private investigator indicating that nationwide searches found no bank accounts for the appellant or her sister. (Ex. 8; Ex. 9).

## **Analysis and Conclusions of Law**

A MassHealth applicant must cooperate with MassHealth in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance. (130 CMR 515.008(A)). To apply for MassHealth long-term care services in a nursing facility, the individual or their authorized representative must submit a complete paper Senior Application and Supplements, or apply in person at a MassHealth Enrollment Center (MEC). (130 CMR 516.001(A)(1)(b)). Upon receiving the application, MassHealth will request any necessary corroborative information to assess eligibility. (130 CMR 516.001(B)). This request will be communicated through written notification shortly after the application is received. (130 CMR 516.001(B)(1); 516.003(C)). The notice will specify a due date for submitting the requested information and outline the consequences of non-compliance. (130 CMR 516.001(B)(2); 516.003(D)). If MassHealth receives the information within 30 days of the request, the application is deemed complete, and MassHealth will determine the most comprehensive coverage type for which the applicant qualifies. (130 CMR 516.001(C)). Failure to provide the requested information within this timeframe may result in denial of benefits. (Id.).

MassHealth requires verification of various eligibility factors, including income, assets, residency, citizenship, immigration status, and identity. (130 CMR 516.003). To verify ownership of countable assets, written documentation is essential. (130 CMR 520.005(D)). Acceptable forms of verification can be varied and may include title documents, purchase contracts, and, for joint bank account records, documents that clearly show ownership and responsibilities. (Id.). Other acceptable documentation may include ownership certifications, financial institution records indicating

ownership interests, and evidence of asset value and access restrictions. (Id.).

With the exception of citizenship and immigration status verifications, MassHealth allows self-attestation for all other eligibility criteria on a case-by-case basis when documentation is unavailable or difficult to obtain. (130 CMR 516.003(G)). Although this flexibility applies particularly to individuals who are homeless, have experienced domestic violence, or have been affected by a natural disaster, this flexibility is not limited to these classes of people. (Id.).

The hearing officer may not exclude evidence at the hearing simply because it was not previously submitted to the acting entity, as long as they allow the acting entity representative reasonable time to respond to any new evidence, and any adjustments to the appellant's eligibility status will take effect on the date when all eligibility conditions were met, regardless of when the supporting evidence was submitted. (130 CMR 610.071(A)(2)).

MassHealth received the appellant's application for LTC services on March 5, 2024. Following the application, MassHealth sent the appellant a request for information on March 14, 2024 asking she submit requested verifications by June 12, 2024. The application was denied on June 17, 2024, due to the appellant not verifying all requested information. MassHealth confirmed that after the denial, most of the missing verifications were submitted, but MassHealth still required verification of where the appellant's Social Security income was being deposited, and, if that income was being deposited into a bank account, statements for that account from March 2023 to the present, as well as an explanation of all transactions of \$1,500 and over. The appellant's representative explained that they have had a great deal of difficulty identifying where the appellant's Social Security benefits are being deposited. The appellant had left the facility against medical advice and had not given the facility permission to speak with the Social Security Administration to obtain this information easily. The facility had secured the services of an attorney to investigate possible locations, and despite performing a nationwide investigation, the attorney was not able to identify an account associated with several pieces of the appellant's personal identifying information, or with her sister's name.

Given the circumstances, it appears that the appellant's representative and the nursing facility have made significant efforts to comply with MassHealth's verification requirements despite obstacles beyond their control. A nationwide bank search showed no bank accounts for the appellant. MassHealth did not submit evidence of any bank accounts in the appellant's name as the result of a MassHealth asset verification search. Furthermore, the regulations allow for self-attestation and flexibility in documentation, particularly for individuals facing challenges in providing complete records. The evidence supports that the appellant has no bank account into which her Social Security income is deposited. Through a data match with the Social Security Administration, MassHealth can verify the amount of Social Security income the appellant receives. Such amount can be used in calculating the appellant's PPA. Between the information provided through this hearing process, and the other documents submitted to MassHealth previously, MassHealth is able to verify the essential elements concerning the appellant's eligibility for MassHealth.

For the above stated reasons, the appeal is APPROVED.

## **Order for MassHealth**

Rescind the notice dated June 17, 2024, and reopen and process the appellant's MassHealth application dated March 15, 2024.

## **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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171