

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2413645
<b>Decision Date:</b>	10/25/2024	<b>Hearing Date:</b>	10/02/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	10/23/2024

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Simon Poon



*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>	Community Eligibility – Under 65 - Residency
<b>Decision Date:</b>	10/25/2024	<b>Hearing Date:</b>	10/02/2024
<b>MassHealth's Rep.:</b>	Simon Poon	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 July 25, 2024, MassHealth notified the appellant that they do not qualify for MassHealth as they did not provide proof in the time allowed. (130 CMR 502.003). The appellant filed a timely appeal on August 20, 2024. (130 CMR 610.015; Exhibit 2). The Board of Hearings scheduled a hearing for October 2, 2024. (Exhibit 3). The record was held open to provide the appellant with the opportunity to present additional evidence. (Exhibit 4). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant does not qualify for MassHealth as they did not provide proof in the time allowed. (130 CMR 502.003(D)).

### Issue

Whether MassHealth was correct in determining that the appellant does not qualify for MassHealth as they did not provide proof in the time allowed.

## Summary of Evidence

All parties appeared by telephone and the hearing officer administered the oath or affirmation to parties providing testimony at hearing.

MassHealth sent the appellant a renewal application for health and dental coverage. The appellant completed the application by telephone and MassHealth issued a request for information in March 2024 seeking verification of residency on or before June 26, 2024. The agency did not receive the information so issued the notice on appeal on July 25, 2024. The MassHealth representative testified that the agency still needs proof of the appellant's residency.

On July 30, 2024, MassHealth received laboratory test results with an address listed for the appellant. The agency determined that these documents were not sufficient to verify the appellant's residency. The MassHealth representative testified that the agency needs to see a utility bill, lease, rent receipt or affidavit to verify the appellant's residency. The MassHealth representative testified that the agency has records of calls with the appellant and representatives sent the appellant documents to utilize to provide the necessary verification. As of the hearing date, the agency has not received verification of the appellant's residency.

At hearing, in questioning what the agency would need to see in an affidavit, the appellant confirmed that an affidavit would state that I, [appellant's name], live at [address] in [City], Massachusetts.<sup>1</sup> When discussing the possibility of the appellant submitting a signed affidavit at a MassHealth Enrollment Center, the appellant stated that she lived in [City], Massachusetts<sup>2</sup>. The record was held open to see if the appellant could provide a signed affidavit to the agency. During the record open period, neither the MassHealth representative nor the hearing officer received any additional information from the appellant.

## Findings of Fact

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

1. MassHealth sent the appellant a renewal application for health and dental coverage.
2. The appellant completed the application by telephone.

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<sup>1</sup> The address noted by the appellant at hearing, while under oath, is the same as the address listed on the notice issued by MassHealth, the fair hearing request form signed by the appellant and the notice from the Board of Hearings. The appellant acknowledged receipt of all correspondence at the hearing.

<sup>2</sup> The city noted by the appellant is the same as that provided in earlier testimony and listed in notices issued by the agency and the Board of Hearings.

3. In March 2024, MassHealth issued a request for additional information with information due on or before June 26, 2024.
4. On July 25, 2024, MassHealth denied the appellant's renewal application as the agency did not receive proof of residency.
5. At hearing, the appellant was sworn in and stated her current residential address in a city in Massachusetts.
6. The notice issued by MassHealth, the request for hearing form and the notice from the Board of Hearings all list the same residential address as the one the appellant testified to at hearing.

## **Analysis and Conclusions of Law**

Pursuant to 130 CMR 502.003, MassHealth requires verification of eligibility factors including income, residency, citizenship, immigration status, and identity.

Pursuant to 503.002, as a condition of eligibility, an applicant or member must be a resident of the Commonwealth of Massachusetts. Unless otherwise specified

- (1) individuals 21 years of age and older are residents of the Commonwealth if they are living in the Commonwealth and either
  - (a) intend to reside in the Commonwealth, with or without a fixed address; or
  - (b) have entered the Commonwealth with a job commitment or are seeking employment, whether or not they are currently employed; or
- (2) individuals 21 years of age and older who are not capable of stating intent as defined in 42 CFR 435.403(c) are residents of the Commonwealth if they are living in the Commonwealth.
- (3) For any other non-institutionalized individuals 21 years of age and older not subject to 130 CMR 503.002(A)(1) or (2), their residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the Transitional Assistance to Families with Dependent Children (TAFDC) program. (130 CMR 503.002(A)).

Pursuant to 130 CMR 503.002(E)(1), an individual's residency is considered verified if the individual has attested to Massachusetts residency and the residency has been confirmed by electronic data

matching with federal or state agencies or information services. If residency cannot be verified through electronic data matching or there is conflicting information, MassHealth may require documentation to validate residency. (130 CMR 503.002(E)(2)).

Acceptable proof of Massachusetts residency includes the following, as well as any other verification allowed as determined by MassHealth:

- (1) copy of deed and record of most recent mortgage payment (if mortgage is paid in full, provide a copy of property tax bill from the most recent year);
- (2) current utility bill or work order dated within the past 60 days;
- (3) statement from a homeless shelter or homeless service provider;
- (4) school records (if school is private, additional documentation may be requested);
- (5) nursery school or daycare records (if school is private, additional documentation may be requested);
- (6) Section 8 agreement;
- (7) homeowner's insurance agreement;
- (8) proof of enrollment of custodial dependent in public school;
- (9) copy of lease and record of most recent rent payment; or
- (10) affidavit supporting residency signed under pains and penalties of perjury that states the individual is not visiting Massachusetts for personal pleasure or to receive medical care in a setting other than a nursing facility. (130 CMR 503.002(F)).

The regulatory list of proof of Massachusetts residency is not exclusive. (130 CMR 503.002(F)). Testimony at hearing regarding residency is comparable to an individual providing an affidavit signed under pains and penalties of perjury as the individual at hearing is sworn under oath or affirmation regarding the truthfulness of their testimony. (130 CMR 610.065(A)(1)). The appellant appeared at hearing, was sworn under oath and provided testimony regarding their current address in Massachusetts. The address testified to at hearing is the same as the address listed on the notice issued by MassHealth, the request for hearing form and the notice from the Board of Hearings. The appellant's testimony along with the documentation of the agency and the Board of Hearings provides acceptable proof of residency.

This appeal is approved.

## **Order for MassHealth**

Rescind the notice on appeal and continue to determine eligibility honoring the original renewal date as the appellant has provided acceptable proof of residency during the course of the appeal.

## **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129