

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2414744
Decision Date:	11/27/2024	Hearing Date:	10/22/2024
Hearing Officer:	Sharon Dehmand	Record Open to:	11/05/2024

Appearance for Appellant:




Appearance for MassHealth:

Evelyn Daniel, Springfield MEC



*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; Coverage start date
Decision Date:	11/27/2024	Hearing Date:	10/22/2024
MassHealth's Rep.:	Evelyn Daniel	Appellant's Rep.:	
Hearing Location:	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 September 18, 2024, MassHealth approved the appellant's application for MassHealth long-term care benefits with a start date of May 22, 2024. See 130 CMR 516.006(A); 130 CMR 520.004; and Exhibit 1. The appellant filed this appeal in a timely manner on September 25, 2024. See 130 CMR 610.015(B) and Exhibit 2. Any action to suspend, reduce, terminate, or restrict a member's assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth approved the appellant for long-term care services with a coverage start date of May 22, 2024.

Issue

Whether MassHealth was correct in determining the appellant's coverage start date of May 22, 2023. See 130 CMR 520.004.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center. The appellant was represented by an attorney who verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is over the age of 65 and resides in a nursing facility. A long-term care application was submitted on the appellant's behalf on April 24, 2024, requesting a coverage start date of April 22, 2024. MassHealth approved the appellant's application for long-term care with the coverage start date of May 22, 2024 with no patient paid amount. The MassHealth representative stated that the appellant has privately paid the nursing facility for 30 days. As such, coverage would start on May 22, 2024.

The appellant's attorney stated that he agreed with MassHealth representative's recitation of the facts. He said that the issue in this appeal is with the nursing facility and not with MassHealth. He testified that the nursing facility induced the appellant's son to pay for 30 days out of his own funds and has refused to reimburse him unless MassHealth issues a notice allowing the coverage start date of April 22, 2024. He added that the nursing facility has retained counsel in this case and is refusing to return the funds to the son. The appellant's attorney argued that the coverage start date should be back dated because the appellant incurred medical bills within three months prior to the application date. However, he admitted that the regulations will not support his argument in this appeal.

The MassHealth representative stated that if the nursing facility refunds the family's payment, it can then bill MassHealth for the long-term care services provided for those 30 days. At that point MassHealth can provide a retroactive coverage start date based on regulations. The appellant's attorney requested that the record remain open so that he can work with the nursing facility's attorney to resolve the matter and obtain a refund for the family.

The record was left open until October 29, 2024, for the appellant to facilitate the return of funds to the appellant's son and provide MassHealth with proof of the same. The record was further left open until November 5, 2024, for MassHealth to review the submissions from the appellant and to respond. See Exhibit 6.

No submissions were made by the appellant's attorney during the record open period. Through an email on November 6, 2024, the MassHealth representative stated that MassHealth had not changed its position since the hearing. See Exhibit 7.

Findings of Fact

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

1. The appellant is over the age of 65 and lives in a nursing facility. (Testimony).
2. A MassHealth long-term care application was submitted on the appellant's behalf on April 24, 2024. (Testimony and Exhibit 5).
3. The appellant requested the coverage start date of April 22, 2024. (Testimony and Exhibit 5).
4. The appellant's son privately paid the nursing facility for 30 days in the amount of \$10,830.00. (Testimony and Exhibit 5).
5. Through a notice dated September 19, 2024, MassHealth notified the appellant that he was approved for long-term care services with an effective start date of May 22, 2024 with no patient paid amount. (Testimony and Exhibit 1).
6. A timely appeal was filed on September 25, 2024. (Exhibit 2).
7. The record was held open until October 29, 2024 for the appellant's attorney to facilitate the return of funds to the appellant's son and until November 5, 2024 for MassHealth to review and respond to the appellant's submission. (Testimony and Exhibit 6).
8. No submissions were made by the appellant's attorney during the record open period.
9. Through an email on November 6, 2024, the MassHealth representative stated that MassHealth had not changed its position since the hearing. (Exhibit 7).

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. See 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, he is subject to the requirements of the provisions of Volume II. See 130 CMR 515.002.

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (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.

See 130 CMR 519.006(A). An applicant for long-term care benefits "must file a complete Senior Application and Supplements or apply in person at a MassHealth Enrollment Center." See 130 CMR 516.001(A)(1)(b). The date of application is considered the date that the application is received by MassHealth. See 130 CMR 516.001(A)(2)(a).

In this case, there is no dispute that the appellant is a long-term care resident eligible for MassHealth Standard coverage. The only issue is the determination of the coverage start date.

A member's start date for MassHealth Standard coverage, whether they are in the community or institutionalized, 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." See 130 CMR 516.006(A)(2).

In this case, there is no dispute that the appellant received long-term care services within the three months prior to the date of the application. There is also no dispute that the appellant was eligible for MassHealth coverage at the time such services were provided. The only remaining issue is whether MassHealth should adjust the coverage start date where there is no outstanding bill for medical services because the bill was privately paid by the appellant's son.

The MassHealth agency is payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law. See 130 CMR 517.008. Here, the appellant privately paid for 30 days of long-term care services. Accordingly, MassHealth correctly determined that the coverage start date will begin following the privately paid period.

At the hearing, the appellant's attorney cited to 130 CMR 520.004(B), in support of his argument that bill for medical services can be used to reduce assets in order to establish eligibility for

long-term services. However, he admitted that this regulation does not support his argument as it relates to the issue in this appeal. The appellant's attorney is correct that the regulation cited is wholly irrelevant to the issue on this appeal. Here, there were no outstanding medical bills for services that MassHealth could appropriately consider in its determination of coverage start date. See generally 130 CMR 520.004; 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"). The undisputed evidence presented at the hearing and as part of the record established that there was no outstanding bill for medical services. See Exhibit 5, p. 4. Thus, the appellant has not met his burden of proof that MassHealth erred in its determination of coverage start date. As such, I find that MassHealth correctly determined the coverage start date of May 22, 2024.

For the foregoing reasons 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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186

