Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2415096
Decision Date:	11/4/2024	**Hearing Date:**	10/28/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
[redacted]

Appearance for MassHealth:
Kelly Rosati

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: Verification
Decision Date:	11/4/2024	**Hearing Date:**	10/28/2024
MassHealth's Rep.:	Kelly Rosarti	**Appellant's Rep.:**	[redacted]
Hearing Location:	All Parties Appeared by Telephone	**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 August 26, 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 515.008; 130 CMR 516.001; Exhibit 1). The appellant's authorized representative filed a timely appeal on October 2, 2024. (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 505.008; 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

On May 14, 2024, MassHealth received an application for long-term care benefits seeking coverage as of May 9, 2024. The appellant also filed an application for long-term care in April 2024 listing a life insurance policy as an asset. The appellant did not list the life insurance policy on the May 2024 application. MassHealth requested verification of the face value or the cash surrender value of the life insurance policy as they had a record of the appellant having a policy from the earlier application and bank statements presented with the May 2024 application show monthly payments of $9.95 made out to [redacted] The MassHealth representative testified that the agency listed this life insurance policy in requests for information sent on May 22, 2024, July 16, 2024 and July 18, 2024.

The appellant's representative acknowledged receipt of requests for information regarding a life insurance policy. The appellant's representative did not dispute the fact that payments are made each month to [redacted] as they are listed on the bank statements provided to MassHealth. The appellant's representative testified that they presented a letter stating that the appellant did not have a life insurance policy but could not explain the payments made to [redacted] or the reason for listing a policy on an April 2024 application but not on a May 2024 application. The appellant's representative noted that they are still in the process of trying to obtain information about the payments to [redacted]

The MassHealth representative responded that the agency could not accept a letter stating that the appellant does not have a life insurance policy when bank records from June 2024 reflect payments made to an insurance policy and the April 2024 application lists a life insurance policy as an asset.

The appellant's representative did not have anything to offer to MassHealth or the Board of Hearings at the time of the hearing regarding the policy or payments in question only that they were seeking that the Board of Hearings keep the record open to provide them with additional time to obtain information. 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 on May 14, 2024 seeking coverage as of May 9, 2024.

2. On May 22, 2024, July 16, 2024 and July 18, 2024, MassHealth issued notices requesting information necessary to determine eligibility. Each notice included a request for the appellant to provide verification related to payments made to [redacted] and a life insurance policy listed on an April 2024 application for benefits.

3. On August 26, 2024, MassHealth denied the application for failure to provide information necessary to complete the application.

4. As of October 28, 2024, MassHealth had not received information necessary to determine eligibility for long-term care.

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 appellant's representative did not dispute the fact that

they had not provided information necessary to determine eligibility. The appellant's representative only offered a request for the Board of Hearings to keep the record open in order to obtain additional information.

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)). The appellant's representative did not provide any testimony or evidence at the hearing to challenge the decision on appeal.

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 representative 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

[redacted]

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