

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2415868
Decision Date:	12/19/2024	Hearing Date:	11/12/2024
Hearing Officer:	Emily Sabo	Record Open to:	12/10/2024

Appearance for Appellant:



Appearance for MassHealth:

Linah Kunobwa, Charlestown 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; Verifications
Decision Date:	12/19/2024	Hearing Date:	11/12/2024
MassHealth's Rep.:	Linah Kunobwa	Appellant's Rep.:	
Hearing Location:	Charlestown MassHealth Enrollment Center	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 16, 2024, MassHealth denied the Appellant's application for MassHealth long-term care services in a nursing facility because MassHealth determined that the Appellant failed to timely provide MassHealth with the information necessary to determine eligibility. 130 CMR 515.008 and Exhibit 1. The Appellant's attorney-in-fact filed this appeal in a timely manner on October 16, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's application for long-term-care services in a nursing facility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the Appellant did not provide MassHealth with the information necessary for MassHealth to make an eligibility determination.

Summary of Evidence

The hearing was held by telephone. The MassHealth representative¹ testified that the Appellant was admitted to a long-term-care facility on [REDACTED]. The MassHealth representative testified that the Appellant submitted an application for MassHealth Long-Term Care benefits on May 3, 2024. The MassHealth representative testified that MassHealth sent the Appellant a request for information on May 22, 2024, and the Appellant's application was denied on September 16, 2024 for failure to submit verifications. The MassHealth representative testified that the information missing included information on the Appellant's private pension and efforts to get it reinstated, checking and savings accounts, and the Appellant's personal needs account at the facility stating what was paid to the facility and what it paid for.

The Appellant's representative verified the Appellant's identity. The Appellant's representative testified that the Appellant had privately paid the facility approximately \$7,000. *See also* Exhibit 2 at 16 (letter from the facility stating that the Appellant has "paid \$7,102.08 privately and this amount has been applied to PPA."). The Appellant's representative testified that one of the Appellant's bank accounts was not opened until 2023, and that it was difficult to get the Appellant's pension reinstated because he is not able to sign documents.

The record was held open until November 26, 2024, for the Appellant's representative to submit the missing information and until December 10, 2024, for MassHealth to review and respond. On November 25, 2024, the Appellant's representative requested that the record-open period be extended because the nursing facility was filing for a conservator for the Appellant. Exhibit 6 at 2. On November 25, 2024, the hearing officer responded that the record-open period could be extended but only for a limited time, and asking the Appellant's representative to clarify. *Id.* On December 9, 2024, the Appellant's representative responded that the facility had hired an attorney and that they may be seeking to put in place a new guardian for the Appellant. *Id.* at 1. On December 12, 2024, the hearing officer responded and denied the request to further extend the record-open period. Exhibit 7 at 1-2. The hearing officer also asked that the parties clarify whether the Appellant had submitted any additional missing information to MassHealth because the Board of Hearings had not received any. On December 13, 2024, the Appellant representative responded that she had some of the verifications but was "stuck" on the pension being reinstated. Exhibit 7 at 1. The Appellant representative submitted a thirty-page document. *See* Exhibit 7. On December 16, 2024, the Appellant stated that the pension was inaccessible and when the "pension is reinstated and he receives any retro it will go toward PPA." Exhibit 8 at 1. On December 18, 2024, the MassHealth representative responded that she could not approve the application because she was unable to find any MassHealth regulations addressing inaccessible

¹ The MassHealth representative "B" who appeared at the hearing was not the same representative who had reviewed and decided the initial application, representative "A." MassHealth representative "A" responded during the record open period.

income. *Id.*

Findings of Fact

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

1. The Appellant is over the age of 65 (Exhibit 4).
2. The Appellant was admitted to a long-term care facility on [REDACTED] (Testimony, Exhibit 5).
3. The Appellant submitted a MassHealth application for long-term care services in a nursing facility on May 3, 2024 (Testimony, Exhibit 5).
4. On September 16, 2024, MassHealth denied the Appellant's application for failure to provide requested information (Testimony, Exhibit 1)
5. On October 16, 2024, the Appellant's attorney-in-fact timely filed an appeal with the Board of Hearing (Exhibit 2).
6. The record was held open until November 26, 2024, for the Appellant's representative to submit the missing information sought by MassHealth (Exhibit 6).
7. On [REDACTED] well over a year after the Appellant's nursing facility admission, the Appellant's representative indicated that the facility had hired an attorney and that they may be seeking to put in place a new guardian for the Appellant.
8. On December 13, 2024, the Appellant's representative provided some of the missing information, and explained further that they had been unable to get the Appellant's pension reinstated (Exhibit 7).
9. On December 18, 2024, the MassHealth representative stated that she was not able to approve the Appellant's application (Exhibit 8).

Analysis and Conclusions of Law

The MassHealth regulations at 130 CMR 515.008 provide that:

515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth

agency 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.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

130 CMR 515.008.

MassHealth regulations also provide:

520.009: Countable-income Amount

(A) Overview.

- (1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.
- (4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

130 CMR 520.009(A).

MassHealth denied the Appellant's application for benefits because the Appellant failed to submit the necessary information to determine the Appellant's eligibility. 130 CMR 515.008(A). During the record-open period following the hearing, the Appellant did not submit the requested information to determine the Appellant's eligibility. Even allowing for the Appellant's late submission, the Appellant's representative stated that the Appellant has not had his pension reinstated. Exhibit 8. As stated above, the Appellant's countable income includes income to which the Appellant "would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf." 130 CMR 520.009(A)(4). The Appellant has not demonstrated that MassHealth erred in denying the Appellant's application for MassHealth long-term care services. 130 CMR 515.008(A). Accordingly, the 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.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

[REDACTED]

[REDACTED]

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