

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2416939
Decision Date:	01/21/2025	Hearing Date:	12/11/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	1/09/2025

Appearance for Appellant:



Appearance for MassHealth:

Michael Richelson



*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:	Approved	Issue:	Eligibility – Long Term Care, Failure to Verify
Decision Date:	01/21/2025	Hearing Date:	12/11/2024
MassHealth's Rep.:	Michael Richelson	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone		

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 give MassHealth the information it needs to decide eligibility within the required time frame. (130 CMR 515.008; 130 CMR 516.001; Exhibit 1). The appellant's attorney-in-fact filed an appeal on November 4, 2024. (Exhibit 2; Exhibit 3). The Board of Hearings dismissed the appeal because it was not received within the time specified in 130 CMR 610.015, which is 60 days after a MassHealth applicant or member receives official written notice of action. (130 CMR 610.004; 130 CMR 610.015(B); Exhibit 4). The appellant sent a request to vacate the dismissal stating that there was an administrative error in their office and a dismissal of the appeal would cause undue hardship to the appellant. (Exhibit 5). In response to this request, the Board of Hearings vacated the dismissal. (130 CMR 610.048(C); Exhibit 6). A hearing was held on December 11, 2024 and, at the request of the parties, the record was held open until January 3 2025. (Exhibit 8).

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 give

MassHealth the information it needs to decide eligibility within the required time frame. (130 CMR 515.008; 130 CMR 516.001).

Issue

Whether MassHealth was correct in denying the appellant's application for MassHealth benefits due to failure to give MassHealth the information it needs to decide eligibility within the required time frame.

Summary of Evidence

MassHealth received a long-term care renewal application. On May 22, 2024, MassHealth sent a request for information seeking information on or before August 20, 2024. (Testimony; Exhibit 9). On August 26, 2024, MassHealth issued a notice denying coverage as they did not receive all of the information necessary to determine eligibility. (Testimony; Exhibit 1). As of the date of the hearing, the agency still did not have all of the information necessary to determine eligibility.

At hearing, the MassHealth representative acknowledged that some of the information was received prior to the hearing. At hearing, the MassHealth representative testified that the appellant needs to file a new application as the agency cannot accept the information from the request and continue to process an application from May 2024. The appellant's representative responded that they provided MassHealth with information on the day of the hearing. Documents from that submission are incorporated into the hearing record as Exhibit 7. The MassHealth representative noted that there were still outstanding documents. Neither party had a copy of the original request for information and there were some questions regarding the information listed in the request versus that provided by the appellant's representative prior to the hearing. The record was held open to provide the appellant's representative with the opportunity to provide any additional evidence or arguments. (Exhibit 8). MassHealth had until January 3, 2025 to review and respond to any submission. (Id.).

Documents presented by the appellant's representative during the record open period were incorporated into the hearing record as Exhibit 10. A response from MassHealth's review of the records was incorporated into the hearing record as Exhibit 11. In their response, MassHealth acknowledged that the appellant's representative provided the information necessary to determine eligibility during the course of the appeal. The MassHealth representative stated that the documents submitted during the course of the appeal "do not affect the appellant's current eligibility determination as a new application is currently needed".

Findings of Fact

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

1. In May 2024, MassHealth received an application for long-term care from the appellant.
2. On May 22, 2024, MassHealth issued a notice seeking information necessary to complete the eligibility determination.
3. On August 24, 2024, MassHealth issued a notice denying the appellant's application for failure to give MassHealth the information it needs to decide eligibility within the required timeframe.
4. During the course of the appeal, MassHealth received the information necessary to determine eligibility.

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 (EOM) 23-09).

In this case, the appellant was provided with the appropriate 90 days to provide the information necessary to determine eligibility. (130 CMR 516.001; EOM 23-09). During the course of the appeal, the appellant provided the information necessary to determine eligibility.

Pursuant to 130 CMR 610.071(A)(2), the effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted. In this case, supporting evidence was submitted on the day of the hearing as well as during the record open period. Under the regulations governing the fair hearing process, MassHealth can determine eligibility honoring an application submitted in May, 2024.

This appeal is approved.

Order for MassHealth

Continue processing the long-term care application dated May 22, 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957