Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	DENIED	**Appeal Number:**	2418339
Decision Date:	1/10/2025	**Hearing Date:**	12/31/2024
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:
[redacted]

Appearance for MassHealth:
Sandy Xie, Quincy 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:	1/10/2025	**Hearing Date:**	12/31/2024
MassHealth's Rep.:	Sandy Xie	**Appellant's Rep.:**	[redacted]
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 October 21, 2024, MassHealth denied the appellant's application for MassHealth long-term care benefits because the appellant did not provide MassHealth the information it needs to decide her eligibility. See 130 CMR 515.008 and Exhibit 1. The appellant filed this appeal in a timely manner on December 2, 2024. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal before the Board of Hearings. See 130 CMR 610.032(A)(1).

Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits.

Issue

Whether MassHealth was correct in denying the appellant's application for MassHealth long-term care benefits pursuant to 130 CMR 515.008.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Quincy MassHealth Enrollment Center. The appellant was represented by a representative from the nursing facility. 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 June 28, 2024, seeking a coverage start date of July 17, 2024. On July 16, 2024, as part of the eligibility process, MassHealth issued a request for information (VC-1), seeking verifications. No verifications were submitted by the due date of October 14, 2024. Through a notice dated October 21, 2024, MassHealth denied the appellant's application for long-term care services because the appellant did not provide MassHealth the information it needed to decide her eligibility. Subsequently, MassHealth received some of the verifications requested. On November 26, 2024, and December 5, 2024, MassHealth issued requests for outstanding verifications due by December 26, 2024.[1]

The appellant's representative stated that the appellant was first admitted to the nursing facility on [redacted] She was transferred to a hospital on [redacted] She returned to the nursing facility on [redacted] but was readmitted to the hospital on [redacted] On [redacted] she was discharged from the hospital and readmitted to the nursing facility, where she has remained. The appellant's representative argued that MassHealth's requested verifications regarding the in-community spouse's assets is improper. She contended that since the appellant was in the hospital and not in the community, she remained institutionalized in accordance with the regulations. As such, verifications regarding the spouse's assets should not be requested by MassHealth.

The MassHealth representative responded that based on the appellant's MassHealth history set forth in the Medicaid Management Information Systems (MMIS) submission, and MassHealth notice dated February 2, 2024, the appellant's long-term care coverage ended on January 29, 2024, and her MassHealth Standard was terminated on February 29, 2024. See Exhibit 4 and Exhibit 6, pp. 95-97. She added that MassHealth considers any hospitalization exceeding 30 days as a return to the community because a hospital is not a skilled nursing facility.

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 long-term care facility. (Testimony).

[1] These subsequent requests were not addressed during the hearing and are outside the scope of this appeal.

2. The appellant was admitted to a nursing facility on [redacted] (Testimony and Exhibit 5).

3. The appellant was admitted to a hospital from [redacted] (Testimony).

4. The appellant was approved for MassHealth long-term care services from May 20, 2020 to January 29, 2024. (Testimony and Exhibit 4).

5. Through a notice dated February 2, 2024, MassHealth terminated the appellant's MassHealth coverage effective on February 29, 2024. (Testimony, Exhibit 4, and Exhibit 6).

6. The appellant returned to the nursing facility on [redacted] (Testimony).

7. A MassHealth long-term care application was submitted on the appellant's behalf on June 28, 2024, seeking coverage start date of July 17, 2024. (Testimony).

8. On July 16, 2024, as part of the eligibility process, MassHealth issued a request for information (VC-1), seeking verifications. (Testimony).

9. No verifications were submitted by the due date of October 14, 2024. (Testimony).

10. Through a notice dated October 21, 2024, MassHealth denied the appellant's application for long-term care services because the appellant did not provide MassHealth the information it needed to decide her eligibility. (Exhibit 1).

11. The appellant filed this appeal in a timely manner on December 2, 2024. (Exhibit 2).

12. Subsequently, some verifications were submitted to MassHealth. (Testimony and Exhibit 5).

13. On November 26, 2024, and December 5, 2024, MassHealth issued requests for outstanding verifications due by December 26, 2024. (Testimony and Exhibit 6, pp. 31-37, 59-65).

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. Regulations 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).

In this case, the appellant is over the of 65 and resides in a nursing facility. As such she is an

institutionalized person and subject to the requirements of the provisions of Volume II. See 130 CMR 515.002.

Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements:

> (1) be younger than [redacted] years old or [redacted] years of age or older or, for individuals [redacted] through [redacted] 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).

In determining financial eligibility for long-term care services where one member of the couple is institutionalized, the MassHealth agency completes an assessment of the total value of a couple's combined countable assets and computes the community spouse's asset allowance as of the date of the beginning of the most recent continuous period of institutionalization of one spouse. See 130 CMR 520.016(B)(1)(a).

Here, the appellant was first admitted to a nursing facility on [redacted] Her MassHealth long-term care coverage started on May 20, 2020. She was hospitalized from [redacted] Through a notice dated February 2, 2024, MassHealth terminated the appellant's long-term care coverage because she was no longer a resident of a nursing facility. (Exhibit 6, pp. 98-99). This notice was not appealed within the 60-day time period for appeals required pursuant to 130 CMR 610.015(B)(1). As such, I lack jurisdiction to consider any issues relating to this denial notice. See [redacted] (lack of jurisdiction to consider any issues relating to the denial notice due to failure to pursue an appeal to the Board of Hearings). For that reason, I decline to reach the merits of the MassHealth notice dated February 2, 2024.

As the MassHealth representative testified and the MMIS submitted in the record confirmed, the appellant's MassHealth coverage ended on February 29, 2024. See Exhibit 4. Because the

appellant's MassHealth coverage was terminated, the appellant must submit a new application to MassHealth, as here. See 130 CMR 516.002(C)(if a reapplication is subsequently denied and not appealed, the applicant must submit a new application to pursue eligibility for MassHealth. The earliest date of eligibility for MassHealth is based on the date of the new application).

In order to determine an appellant's eligibility, it is incumbent upon an applicant to cooperate with MassHealth and provide necessary information for a determination:

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.

See 130 CMR 515.008.

If additional documentation is required, including corroborative information as described at 130 CMR 516.001(B), a Request for Information Notice will be sent to the applicant listing all requested verifications and the deadline for submission of the requested verifications. See 130 CMR 516.003(C). Here, MassHealth required additional information to determine eligibility, and despite requests for additional information, ultimately did not receive the information required for the determination. See 130 CMR 516.001(B); Exhibit 1. A Notice of denial was sent to the appellant in accordance with the regulations. Id.

In this case, I find that MassHealth correctly denied the appellant's application for benefits because the appellant failed to submit the necessary information to determine the appellant's eligibility. See 130 CMR 515.008(A). An appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." See [redacted] The appellant has failed to do so.

For the foregoing reasons, this appeal is DENIED.[2]

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

cc: [redacted]

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

[2] Any subsequent MassHealth notices will carry their own separate appeal rights.