

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2418697
Decision Date:	01/31/2025	Hearing Date:	12/26/2024
Hearing Officer:	Sharon Dehmand	Record Open to:	01/17/2025

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rosati, 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 - Verifications
Decision Date:	01/31/2025	Hearing Date:	12/26/2024
MassHealth's Rep.:	Kelly Rosati	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 November 29, 2024, MassHealth denied the appellant's application for MassHealth long-term care services because MassHealth determined that the appellant did not provide necessary information MassHealth requires to decide the appellant's eligibility within the required time frame. See 130 CMR 515.008 and Exhibit 1. The Appellant filed this appeal in a timely manner on December 6, 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 services in a nursing facility.

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 Springfield MassHealth Enrollment Center. The appellant was represented by an attorney who confirmed his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant was admitted to a long-term-care facility on [REDACTED]. He stated that MassHealth received an application for long-term care services on July 26, 2024, without a requested coverage start date. The MassHealth representative testified that MassHealth received some of the verifications requested but it ultimately denied this application on November 29, 2024, for failing to submit information necessary to determine eligibility. He stated that the following items are still outstanding: 1) notification of admission to facility (SC-1); 2) nursing facility screening notification; 3) a list of the revocable trust assets; and 4) verification of ownership of the bank accounts at [REDACTED]. See Exhibit 1 and Exhibit 5.

The appellant's attorney stated that the application was submitted with the understanding that the appellant would ultimately be denied long-term care benefits due to exceeding the asset limit. The primary purpose of the application was to initiate a hearing to seek an increase in the community spouse resource allowance, as the appellant's spouse resides in an assisted living facility while the appellant resides in a nursing facility. He clarified that this explanation was merely to provide context for what follows and acknowledged that it was not relevant to the issue on appeal. Regarding this appeal, the attorney requested that the record be held open for the appellant to submit the outstanding verifications.

The record was held open until January 10, 2025, for the appellant to submit the missing verifications, and until January 17, 2025, for MassHealth to review and respond. See Exhibit 5. The appellant submitted some verifications on January 23, 2025. See Exhibit 6. Through an email on January 27, 2025, the MassHealth representative stated that not all requested verifications were submitted by the appellant. As a result, MassHealth is unable to make an eligibility determination. 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 long-term care facility. (Testimony and Exhibit 4).
2. The appellant was admitted to a nursing facility on [REDACTED]. (Testimony).
3. On July 26, 2024, a long-term care application for the appellant was received by MassHealth.

(Testimony).

4. On November 29, 2024, MassHealth denied the appellant's application for MassHealth long-term care services because MassHealth determined that the appellant did not provide necessary information MassHealth requires to decide the appellant's eligibility within the required time frame. (Exhibit 1).
5. MassHealth determined that the following items were still outstanding: 1) notification of admission to facility (SC-1); 2) nursing facility screening notification; 3) a list of the revocable trust assets; and 4) verification of ownership of the banks accounts at [REDACTED]. (Testimony, Exhibit 1, and Exhibit 5).
6. The appellant filed this appeal in a timely manner on December 6, 2024. (Exhibit 2).
7. The record was held open until January 17, 2025, for the appellant's attorney to submit the missing verifications and for MassHealth to respond to the submissions. (Exhibit 5).
8. On January 23, 2025, the appellant's attorney submitted some verifications. (Exhibit 6).
9. On January 27, 2025, the MassHealth representative stated that there were still missing verifications, such that he could not complete an eligibility determination. (Exhibit 7).
10. At a minimum two of the listed verifications requested are still outstanding, namely: items 1 and 2. (Exhibit 6).

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 age of 65 and resides in a nursing facility. As such he is an institutionalized person and subject to the requirements of the provisions of Volume II. See 130 CMR 515.002.

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.

Here, there is no dispute that MassHealth required additional information to determine eligibility. Despite the request for additional information, ultimately MassHealth did not receive the information required for a determination. See 130 CMR 516.001(B); Exhibit 1. A Notice of denial was sent to the appellant in accordance with the regulations. See 130 CMR 516.001 (C); Exhibit 1.

During the hearing held on December 26, 2024, the MassHealth representative testified that the following items were still outstanding: 1) notification of admission to facility (SC-1); 2) nursing facility screening notification; 3) a list of the revocable trust assets; and 4) verification of ownership of the bank accounts at [REDACTED]. The record was left open until January 17, 2025, for the appellant to submit the outstanding verifications and for MassHealth to respond to the submissions.

On January 23, 2025, the appellant's attorney submitted some verifications. See Exhibit 6. Through an email, the MassHealth representative responded that verifications are still missing and that MassHealth is unable to complete an eligibility determination. See Exhibit 7.

Based on my review of the record, at a minimum two of the items listed on the record open remain outstanding, namely: items 1 and 2.¹ See Exhibit 5. An Appellant has a duty to cooperate

¹ It is unclear whether the submission for the third time (the list of trust assets) is sufficient but a determination on this matter is unnecessary, as the appeal is denied due to the failure to

with MassHealth and provide necessary information. See 130 CMR 515.008(A). An Appellant must provide corroborative information for MassHealth to determine eligibility. See generally 130 CMR 516.001. An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” See Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231 (2006). Here, the appellant has failed to do so. Accordingly, I find that MassHealth correctly denied the appellant’s application for long-term care services.

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

[REDACTED]

[REDACTED]

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

submit at least two other required items.

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