

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in Part; Denied in Part	Appeal Number:	2418857
Decision Date:	3/26/2025	Hearing Date:	01/15/2025
Hearing Officer:	Emily Sabo	Record Open to:	03/24/2025

Appearance for Appellant:



Appearance for MassHealth:

Jenny Chan, 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:	Dismissed in Part; Denied in Part	Issue:	Long Term Care; Verifications
Decision Date:	3/26/2025	Hearing Date:	01/15/2025
MassHealth's Rep.:	Jenny Chan	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South (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 November 14, 2024, MassHealth denied the Appellant's application for MassHealth long-term care services in a nursing facility because MassHealth determined that the Appellant did not timely provide MassHealth with the information necessary to determine eligibility. 130 CMR 515.008 and Exhibit 1. The Appellant filed this appeal in a timely manner on December 10, 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 representative testified that MassHealth received a long-term care application from the Appellant on May 31, 2024, and that MassHealth sent a request for verifications on June 7, 2024. The MassHealth representative testified that MassHealth denied the application for failure to submit verifications on September 18, 2024. The MassHealth representative testified that no appeal was filed on that denial, and so the original application date cannot be preserved. The MassHealth representative testified that some verifications were received on October 7, 2024, and that was considered the date of re-application based on 130 CMR 516.002. The MassHealth representative testified that on November 14, 2024, MassHealth denied the October 7, 2024 application for failure to submit outstanding verifications.

The Appellant was represented by an individual from the facility where the Appellant is living. The Appellant's representative verified the Appellant's identity. The Appellant's representative testified that she and the Appellant never received the September 18, 2024 denial and would like MassHealth to consider the May 31, 2024 application date. The Appellant's representative testified that it has been difficult getting information from the Appellant's guardian.

The Appellant's representative requested that the record be left open until March 1, 2025 to submit the information, and later requested, and was granted, a further extension until March 14, 2025. MassHealth was given until March 24, 2025, to review and respond. On March 19, 2025, the MassHealth representative responded that MassHealth had received partial verifications and was missing the gross monthly amount of the Appellant's pension and bank account statements for a particular account. Exhibit 8. The MassHealth representative stated that for that reason, MassHealth would continue to deny the application.

Findings of Fact

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

1. The Appellant is over the age of [REDACTED] (Exhibit 4).
2. The Appellant submitted a MassHealth application for long-term care services in a nursing facility on May 31, 2024 (Testimony, Exhibit 6).
3. On September 18, 2024, MassHealth denied the Appellant's application for failure to provide requested information (Testimony, Exhibit 5)
4. On October 7, 2024, the Appellant submitted some requested verifications, and MassHealth considered that the date of re-application based on 130 CMR 516.002 (Testimony).
5. On November 14, 2024, MassHealth denied the Appellant's application for failure to timely

submit verifications (Exhibit 1).

6. On December 10, 2024, the Appellant filed an appeal with the Board of Hearings (Exhibit 2).
7. The record was held open until March 14, 2025, for the Appellant and her representative to submit the requested information (Exhibits 7 and 8).
8. On March 19, 2025, the MassHealth representative stated that MassHealth was still missing the gross monthly amount of the Appellant's pension and certain bank statements, and so MassHealth would continue to deny the Appellant's application (Exhibit 8).

Analysis and Conclusions of Law

MassHealth regulations provide:

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.

516.002: Reactivating the Application

The MassHealth agency will reactivate the application after a denial of eligibility for failure to provide requested verifications.

(A) If the requested information is received within 30 days of the date of denial, the date of receipt of one or more of the verifications is considered the date of reapplication.

(B) The date of reapplication replaces the date of the denied application. The applicant's earliest date of eligibility for MassHealth is based on the date of reapplication.

(C) If the 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.

(D) If the denial is due to excess assets, the date of reapplication is described at 130 CMR 520.004: *Asset Reduction*.

(E) A new application is required if a reapplication is not received within 30 days from the date of denial.

130 CMR 516.002.

610.015: Time Limits

(A) Timely Notice. Before an intended appealable action, the MassHealth agency must send a written timely notice to the member except as provided in 130 CMR 610.027. A timely notice is a notice mailed at least ten days before the action. Such notice must include a statement of the right of appeal and the time limit for appealing.

(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

(1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;

....

(C) Computation of Time.

(1) Computation of any period referred to in 130 CMR 610.000 is on the basis of calendar days except where expressly provided otherwise. Time periods expire on the last day of such periods unless the day falls on a Saturday, Sunday, legal holiday, or other day on which BOH is closed, in which event the last day of the time period is deemed to be the next day on which BOH is open.

(2) In the absence of evidence or testimony to the contrary, it will be presumed that a notice was received by an appellant on the fifth day after the date of the notice, regardless of

whether the fifth day after the date of the notice falls on a Saturday, Sunday, legal holiday, or other day on which BOH is closed. If an appellant dies on or prior to the date of presumed receipt, then for the purposes of determining whether an appeal request is timely, the appealable notice is still presumed to have been received no later than the fifth day after the date of the notice.

130 CMR 610.015(A), (B)(1), C).

610.035: Dismissal of a Request for a Hearing

- (A) BOH will dismiss a request for a hearing when
(1) the request is not received within the time frame specified in 130 CMR 610.015;

130 CMR 610.035(A)(1).

Regarding MassHealth's denial of Appellant's May 31, 2024 application: on September 18, 2024, MassHealth provided evidence that this was sent to the Appellant representative at her correct address. *Compare* Exhibit 5 *with* Exhibit 1 (both September 18, 2024 and November 14, 2024 notices are sent to the Appellant representative at the same address). Therefore, in order to be timely, an appeal would have to have been filed with the Board of Hearings on or before November 22, 2024. 130 CMR 610.015. The Appellant did not file this appeal until December 10, 2024. Accordingly, I dismiss the Appellant's appeal regarding the September 18, 2024 notice. 130 CMR 610.035(A)(1).

As MassHealth denied the Appellant's May 31, 2024 application on September 18, 2024, and the Appellant submitted verifications within 30 days, on October 7, 2024, MassHealth correctly considered October 7, 2024 the date of reapplication. 130 CMR 516.002(B).

On November 14, 2024, 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, the Appellant did not submit the requested information to determine the Appellant's eligibility. Exhibit 8. Thus, 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 dismissed in part and denied in part.

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:

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