

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:

[REDACTED]

Appeal Decision:	Denied	Appeal Number:	2418938
Decision Date:	02/20/2025	Hearing Date:	01/14/2025
Hearing Officer:	Thomas J. Goode	Record Open to:	02/18/2025

Appearance for Appellant:

[REDACTED]

Appearance for MassHealth:

Roberta Nolan, Tewksbury 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:	Verification
Decision Date:	02/20/2025	Hearing Date:	01/14/2025
MassHealth's Rep.:	Roberta Nolan	Appellant's Rep.:	
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 12, 2024, MassHealth denied Appellant's application for MassHealth long-term care benefits for failure to verify eligibility (130 CMR 515.008, 516.001, 516.003 and Exhibit 1). Appellant filed this appeal in a timely manner on December 11, 2024 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is a valid ground for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's application for long-term care benefits for failure to verify eligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, 516.001, 516.003 in denying Appellant's application for long-term care benefits for failing to verify eligibility.

Summary of Evidence

MassHealth testified as follows:

Appellant was admitted to a nursing facility on [REDACTED]. A MassHealth Long-term Care Application was filed on 7/31/24 seeking an eligibility date of 5/30/24.

Application timeline:

- 7/31/24 LTC application received
- 8/7/24 Request for Information with response deadline of 11/5/24
- 11/12/24 Denial issued for missing verifications (issue on appeal). 130 CMR 515.008
- 11/26/24 Partial verifications received. Case reactivated.
- 11/26/24 Second Request for Information with response deadline of 12/26/24

The information missing as of the date of appeal includes:

1. Mortgage proceeds: Real estate records show on 2/18/15 Applicant transferred [REDACTED] from herself individually to herself and Nephew as joint tenants. On 8/31/21, Applicant and Nephew took out a mortgage from [REDACTED] for \$219,000.00. Provide:
 - a. Current mortgage statement showing principal balance due
 - b. From date of deposit of mortgage proceeds forward, all pages of statements including checks, supporting documentation for disbursements of \$1,000 and over, and for recurring disbursements of any amount, and for deposits of any amount (except Social Security).
2. [REDACTED] account [REDACTED]
 - a. For 9/10/24-present: all pages of statements including checks, supporting documentation for disbursements of \$1,000, and over and for recurring disbursements of any amount, and for deposits of any amount (except Social Security).
 - b. Explain and provide supporting documentation for:

DEPOSITS:

 - 1) Monthly deposits from [REDACTED] \$165.73
 - 2) Deposit from [REDACTED] Claim Pmt on 8/22/23 of \$2,000.00
 - 3) Deposit from [REDACTED] on 9/9/24 of \$200.00

DISBURSEMENTS:

 - 4) Payment to [REDACTED] on 1/22/24 of \$2,200.00
 - 5) Checks of various amounts each month to Nephew including check paid 5/15/24 of \$1,500.00

6) Monthly payments to [REDACTED] of \$150.00

For MassHealth to make an eligibility determination, the Applicant must verify that the Applicant is financially eligible as of the request date and currently. It is MassHealth's position that the Appellant has not provided the verifications necessary to make an eligibility determination.

(See Exhibit 6)

Appellant was represented by an attorney who requested that the hearing record remain open to allow outstanding verifications to be submitted to MassHealth. The hearing record remained open until February 4, 2025, for Appellant to submit outstanding verifications to MassHealth, which were timely submitted (Exhibits 7, 8). A MassHealth response was due by February 18, 2025, and was timely received (Exhibit 8).

MassHealth reviewed the verifications submitted and responded stating that verifications received since the 1/14/25 appeal consist of an Affidavit signed by Appellant's nephew dated 2/4/25 ("Affidavit") and several bank statements (See Exhibit 8). Several verifications remain outstanding.

MassHealth reviewed verifications submitted and as of MassHealth's Record Open deadline determined as follows:

- MassHealth requested: Re: 8/31/21 Mortgage on [REDACTED] from [REDACTED] proceeds \$219,000: a current mortgage statement showing principal balance due, and from date of deposit of mortgage proceeds forward, all pages of statements including checks, supporting documentation for disbursements of \$1,000 and over, and for recurring disbursements of any amount, and for deposits of any amount (except Social Security). MassHealth received: Affidavit in which Appellant's nephew states that the proceeds of the mortgage were used for an extensive home renovation that he undertook himself and for which he did not charge Appellant; that all receipts from the renovation were destroyed due to a flood on 8/9/23; and that he was attaching the insurance claim paperwork and his own bank records showing some of the purchases made for the renovations. No supporting documentation was attached to the Affidavit.
- MassHealth requested for [REDACTED]: for 9/10/24-present, all pages of statements including checks, supporting documentation for disbursements of \$1,000, and over and for recurring disbursements of any amount, and for deposits of any amount (except Social Security). MassHealth received statements and checks for 8/20/24 - 1/19/25. No supporting documentation was received. All checks written were payable to Nephew.

- MassHealth requested an explanation and supporting documentation for monthly deposits from [REDACTED] \$165.73. MassHealth received an Affidavit in which Nephew states that Appellant told him she has a small pension but he has been unable to locate any information including company name.
- MassHealth requested verification of a deposit from [REDACTED] Pmt on 8/22/23 of \$2,000. No verification was received.
- Verification received of a deposit from [REDACTED] on 9/9/24 of \$200.00 confirmed it was deposited to Aunt's account in error.
- MassHealth requested verification of a payment to [REDACTED] on 1/22/24 of \$2,200.00; no verification was provided.
- MassHealth requested verification of checks of various amounts payable each month to Nephew including a check paid 5/15/24 of \$1,500.00. MassHealth received an Affidavit in which Appellant's nephew states: "My Aunt never made any gifts to me or anyone."
- Verification of monthly payments to BrightHouse Financial of \$150.00 were resolved as the Affidavit correctly stated that the verifications for payments to BrightHouse, and the life insurance policy, were previously provided.

MassHealth concluded that it is unable to make an eligibility determination based on the verifications received.

Findings of Fact

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

1. Appellant was admitted to a nursing facility on [REDACTED]
2. A MassHealth Long-term Care Application was filed on 7/31/24 seeking an eligibility date of 5/30/24.
3. On 8/7/24, MassHealth issued a request for information with a response deadline of 11/5/24.
4. On 11/12/24, a denial issued for missing verifications.
5. On 11/26/24, partial verifications were received, and the case was reactivated.

6. On 11/26/24, a second request for information issued with a response deadline of 12/26/24.
7. Appellant's attorney requested that the hearing record remain open to allow outstanding verifications to be submitted to MassHealth. The hearing record remained open until February 4, 2025 for Appellant to submit outstanding verifications to MassHealth, which were timely submitted. A MassHealth response was due by February 18, 2025, and was timely received.
8. Real estate records show on 2/18/15 Applicant transferred [REDACTED] A from herself individually to herself and nephew as joint tenants. On 8/31/21, Applicant and nephew took out a mortgage from [REDACTED] for \$219,000.
9. MassHealth requested verification from date of deposit of mortgage proceeds and forward, all pages of statements including checks, supporting documentation for disbursements of \$1,000 and over, and for recurring disbursements of any amount, and for deposits of any amount (except Social Security). MassHealth received: Affidavit in which Appellant's nephew states that the proceeds of the mortgage were used for an extensive home renovation that he undertook himself and for which he did not charge Appellant; that all receipts from the renovation were destroyed due to a flood on 8/9/23; and that he was attaching the insurance claim paperwork and his own bank records showing some of the purchases made for the renovations. No supporting documentation was attached to the Affidavit.
10. To verify [REDACTED], MassHealth requested for the period 9/10/24-present: all pages of statements including checks, supporting documentation for disbursements of \$1,000, and for recurring disbursements of any amount, and for deposits of any amount (except Social Security). MassHealth received: statements and checks for 8/20/24 -1/19/25. No supporting documentation was received. All checks written were payable to Nephew.
11. MassHealth requested an explanation and supporting documentation for monthly deposits from [REDACTED] \$165.73. MassHealth received an Affidavit in which Nephew states that Appellant told him she has a small pension, but he has been unable to locate any information including company name.
12. MassHealth requested deposit verification from [REDACTED] Pmt on 8/22/23 of \$2,000.00. MassHealth received no verification.
13. MassHealth requested verification of a deposit from [REDACTED] on 9/9/24 of \$200.00; the verification was provided by Appellant's counsel and resolved the verification issue.

14. MassHealth requested verification of a payment to [REDACTED] on 1/22/24 of \$2,200.00. No verification was received.
15. MassHealth requested verification of checks of various amounts each month payable to Nephew including a payment on 5/15/24 of \$1,500.00. MassHealth received an Affidavit in which Appellant's nephew states: "My Aunt never made any gifts to me or anyone."
16. MassHealth requested verification of monthly payments to [REDACTED] of \$150.00. The verification issue was resolved by Affidavit that correctly stated that the verifications for payments to BrightHouse, and the life insurance policy, were previously provided.
17. Several verifications remain outstanding, and MassHealth could not determine eligibility.

Analysis and Conclusions of Law

The MassHealth agency requires verification of eligibility factors including income, assets, residency, citizenship, immigration status, and identity as described in 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, 130 CMR 518.000: *MassHealth: Citizenship and Immigration*, and 130 CMR 520.000: *MassHealth: Financial Eligibility* (130 CMR 516.003). Regulation 130 CMR 516.001(B) provides that MassHealth may request additional information or documentation, if necessary, to determine eligibility. The request is generally sent to the applicant within 5 days of receipt of the application and provides 30 days to return the needed documents. If the verifications are not submitted within 30 days of the date of the request, MassHealth benefits may be denied (130 CMR 516.001(C)). Thereafter, if one or more of the documents are submitted within 30 days of the denial, the date of receipt shall be the reapplication date (130 CMR 516.002). An 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 (130 CMR 515.008(A)). The right to appeal a MassHealth determination of eligibility applies only to an applicant or member or nursing facility resident, not to a nursing facility seeking payment.¹

MassHealth has thoroughly reviewed and itemized in its response verifications requested and submitted during the hearing record-open period and identified verifications that remain outstanding (See Exhibit 8). Despite 3 additional weeks to do so during a record-open period, Appellant has not provided to MassHealth verification of mortgage balances, and payments; checking account deposits and disbursements identified above, resource transfers, construction

¹ See 130 CMR 610.001(A) *MassHealth Determinations*. (1) 130 CMR 610.000 sets out the process for requesting and participating in a fair hearing that allows dissatisfied applicants, members, or nursing facility residents to have administrative review of certain actions or inactions on the part of the MassHealth agency and of determinations by a MassHealth managed care contractor.

receipts, and other eligibility factors. The Affidavit submitted is not sufficient verification of financial eligibility for MassHealth benefits. Regulation 130 CMR 516.003(G) allows verification exceptions for special circumstances: “(e)xcept with respect to the verifications of citizenships and immigration status, the MassHealth agency will permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster.” An exception for special circumstances does not apply to the facts at hand. Therefore, the appeal must be 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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc:

Appellant Attorney: [REDACTED]

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