

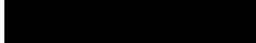
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2419814
<b>Decision Date:</b>	01/30/2025	<b>Hearing Date:</b>	01/27/2025
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Maria Piedade – Taunton Intake



*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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	LTC; Coverage Start Date
<b>Decision Date:</b>	01/30/2025	<b>Hearing Date:</b>	01/27/2025
<b>MassHealth's Rep.:</b>	Maria Piedade	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Telephonic	<b>Aid Pending:</b>	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 4, 2024, MassHealth denied the appellant's August 30, 2024 application for MassHealth long-term-care benefits because the appellant did not give MassHealth the information it needs to decide eligibility "within the required time frame." (Exhibit 5, pp. 7-9; 130 CMR 515.008.) The appellant submitted some, but not all, of the requested information on November 6, 2024, and MassHealth re-logged the application. This "re-app" was denied on December 11, 2024, for the same reason. (Exhibit 1; Exhibit 5, pp. 4-6; 130 CMR 515.008.) On December 27, 2024, MassHealth approved the reapplication allowing a benefits start date of September 1, 2024. The appellant filed this timely appeal on December 27, 2024. (Exhibit 2; 130 CMR 610.015(B).) Limitation of assistance is valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth approved long-term-care benefits 3-months prior to the appellant's reapplication date, rather than the original application date.

### Issue

The appeal issue is whether MassHealth correctly determined the MassHealth start date of September 1, 2024.

## Summary of Evidence

MassHealth's representative appeared at the hearing and testified that the appellant's original application had been denied for missing verifications. On November 6, 2024, some, but not all, of the missing verification were submitted, and MassHealth re-logged the application, giving the appellant a new application date. MassHealth sent out a new information request. When all of the missing verifications were not received by December 11, 2024, MassHealth denied the reapplication.

MassHealth's representative testified that all requested verifications were received by December 17, 2024. MassHealth's representative stated that MassHealth can only approve coverage retroactive to the first day of the third month before the controlling application date. MassHealth's representative testified that the Notice of Appeal she received from the Board of Hearings had identified the denial notice sent on December 11, 2024, as the notice to be reviewed at the hearing. Therefore, she argued that the appeal could not address the November 6, 2024 denial of the original application.

MassHealth's representative testified that nothing was affecting the start date calculation other than the controlling application date issue. MassHealth's representative testified that, had the appellant appealed the November 6, 2024 denial notice, instead of the December 11, 2024 denial notice, MassHealth would have approved the requested benefits start date. MassHealth's representative testified that the original application date is August 30, 2024, and the appellant was looking for coverage to start May 8, 2024. MassHealth's representative repeatedly referred to regulations that precluded an appellant from addressing earlier notices at a fair hearing, however she was unable to specifically cite the regulation upon which she was relying.

The appellant's representative testified that she had filed the appeal with the intention of contesting the November 6 denial notice. The appellant's hearing request packet did not include any notices, and it was surmised that the Board of Hearings identified the December 11, 2024 notice as the relevant notice, as it was the most recent adverse action prior to the appellant's filing the appeal.

## Findings of Fact

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

- 1) On August 30, 2024, the appellant filed a long-term-care application, requesting a MassHealth benefits start date of May 8, 2024. (Testimony by MassHealth's representative.)
- 2) On November 4, 2024, MassHealth denied the August 30, 2024 application because the appellant did not provide information needed to verify his eligibility. (Exhibit 5, pp. 7-9.)

- 3) On November 6, 2024, the appellant submitted some, but not all, of the missing verifications, and MassHealth re-logged the application. (Exhibit 5, p. 1; Testimony by MassHealth's representative.)
- 4) On December 11, 2024, MassHealth denied the reapplication for missing verifications. (Exhibit 1; Exhibit 5, pp. 4-6; 130 CMR 515.008.)
- 5) On December 27, 2024, MassHealth approved the reapplication allowing a benefits start date of September 1, 2024. (Exhibit 5, pp. 2-3.)
- 6) The appellant filed this appeal on December 27, 2024. (Exhibit 2.)

## Analysis and Conclusions of Law

MassHealth applicants must establish financial eligibility, which includes showing that their assets are below a threshold and that they reduced their assets in accordance with state and federal law. (See 130 CMR 520.000.) To qualify for long-term-care benefits, an applicant must complete an application and cooperate with the MassHealth agency by submitting corroborative information. (See 130 CMR 516.001.) "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." (130 CMR 516.002(A); cf. EOM 23-09 (Mar. 2023) (extending time for non-MAGI to verify eligibility factors and provide documentation from 30 days to 90 days).)<sup>1</sup>

Generally, the start date for MassHealth Standard coverage is "the first day of the third calendar month before the month of application, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided." (130 CMR 516.006(A)(2).)

Fair hearings exist to give an appellant the opportunity to present evidence regarding why they believe MassHealth's decision was in error. (See 130 CMR 610.061.) "A request for a fair hearing is defined as a written statement by the appellant that asks for administrative review of an appealable action. The request for a fair hearing must be received by BOH within the time limits set forth in 130 CMR 610.015." (130 CMR 610.034.) An appellant may file an appeal up to "60 days after an applicant or member receives written notice from the MassHealth agency of the intended

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<sup>1</sup> The language of the regulation itself gives 30 days to verify eligibility factors. "Effective April 1, 2023, MassHealth [extended] the time that non-MAGI applicants and members will have for verifying eligibility factors and providing corroborative information, from 30 days to 90 days. This extension will provide more time to respond to a Request for Information and submit verifications and information necessary for MassHealth to make an eligibility determination." (EOM 23-09 (Mar. 2023).) There is no published guidance from MassHealth revoking or amending this EOM.

action.”<sup>2</sup> (130 CMR 610.015(B).) A fair hearing decision must be based upon the evidence submitted during the hearing process, and “[t]he 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.” (130 CMR 610.071(A)(2).)

Nothing in the fair hearing regulations require that the member limit their appeal to the most recent appealable action by MassHealth. Effectively, a hearing officer has jurisdiction to address all appealable actions occurring within the 60 days prior to the hearing request being received at the Board of Hearings. MassHealth’s November 6, 2024 denial notice is within 60 days of the appellant’s December 27, 2024 fair hearing request, therefore the appellant has timely appealed MassHealth’s November 6, 2024 denial of the August 30, 2024 application.<sup>3</sup> All needed verifications were received prior to the fair hearing, and MassHealth’s representative agreed that the appellant established “all eligibility conditions” for long-term-care coverage were met as of May 8, 2024, the appellant’s requested benefits start date. This appeal is APPROVED.

## **Order for MassHealth**

Approve the appellant’s long-term-care benefits as of the requested benefits start date, May 8, 2024.

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<sup>2</sup> Historically, the timeline to file an appeal was 30 days. During the Federal Public Health Emergency for COVID-19, this timeline was extended to 120 days. The regulations were updated in 2023 to allow the current 60-day timeline for appeals. (See EOMs 21-09 (June 2021); 23-11 (April 2023).)

<sup>3</sup> The appellant’s application was filed on August 30, 2024. Even if MassHealth had processed the application the day it was filed and sent out a request for information, the appellant should have received 90 days to “verify[] eligibility factors and provid[e] corroborative information ... .” (EOM 23-09 (Mar. 2023).) The earliest MassHealth could have denied this application for not providing requested verifications would have been November 28, 2024. Because the parties did not address this issue during the appeal, and this appeal is approved on other grounds, this decision takes no position on the implications of EOM 23-09.

## 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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

[REDACTED]

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MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780