

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2509643
<b>Decision Date:</b>	8/22/2025	<b>Hearing Date:</b>	08/04/2025
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	08/15/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Patricia Lemke



*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>	Denied	<b>Issue:</b>	Long-Term Care - Verification
<b>Decision Date:</b>	8/22/2025	<b>Hearing Date:</b>	08/04/2025
<b>MassHealth's Rep.:</b>	Patricia Lemke	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	All Parties Appeared by Telephone		

### 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 May 19, 2025, MassHealth denied the appellant's application for long-term care benefits because the appellant did not give MassHealth the information it needs to decide eligibility within the required time frame. (130 CMR 515.008; 130 CMR 516.001; Exhibit 1). On June 27, 2025, an individual submitted a request for hearing form. (Exhibit 2). On June 30, 2025, the Board of Hearings dismissed the appeal as the request for hearing form was signed by the appellant's Health Care Proxy and Authorized Representative prior to the date of the notice on appeal. (130 CMR 610.034; 130 CMR 610.035; Exhibit 2; Exhibit 3A; Exhibit 3B; Exhibit 4). On July 11, 2025, the Board of Hearings received a request for hearing form signed by the appellant's Health Care Proxy and Authorized Representative on a date following the notice on appeal. (Exhibit 5). On July 14, 2025, the Board of Hearings vacated the dismissal and scheduled a hearing for August 4, 2025. (130 CMR 610.048; Exhibit 6). At the request of the parties, the record was held open until August 15, 2025. (Exhibit 9).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits because the appellant did not provide MassHealth the information it needs to decide eligibility within the required timeframe. (130 CMR 515.008; 130 CMR 516.001).

## **Issue**

Whether MassHealth was correct in denying the appellant's application for long-term care services because she did not provide MassHealth the information it needs to decide eligibility within the required timeframe.

## **Summary of Evidence**

All parties appeared by telephone. Documents from MassHealth are incorporated into the hearing record as Exhibit 7. Documents from the appellant are incorporated into the hearing record as Exhibit 8.

MassHealth received an application for long-term care in March 2025 seeking coverage as of March 12, 2025. On April 1, 2025, MassHealth issued a notice seeking corroborative information. MassHealth did not receive all the corroborative information by the due date. Therefore, MassHealth issued the notice on appeal. (Exhibit 1; Exhibit 7).

The appellant's representative did not dispute the fact that there was still outstanding information. The record was held open to provide the appellant's representative with the opportunity to provide the information that remained outstanding and for MassHealth to review and respond to the appellant's submission. (Exhibit 9).

During the record open period, the appellant's representative acknowledged that they did not provide all the information necessary for MassHealth to determine eligibility. (Exhibit 10). The appellant's representative requested that the Board of Hearings continue to keep the record open and issue at least three subpoenas to institutions from which MassHealth was seeking information. (Exhibit 10). The appellant's representative did not present evidence of any institution's failure to respond to requests for information. Instead, the appellant's representative noted that the appellant's spouse has not been cooperative in providing the necessary information. (Exhibit 10). It was not clear whether the records being requested would be those of the appellant alone or ones held with the spouse. Neither the spouse nor the appellant's health care proxy participated in the hearing other than to sign a request for hearing form naming the individual present at hearing as the appeal representative. The individual serving as the appeal representative was from an administrative consulting service utilized by the nursing facility.

## **Findings of Fact**

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

1. MassHealth received an application for long-term care in March 2025 seeking coverage as of March 12, 2025.
2. On April 1, 2025, MassHealth issued a notice seeking corroborative information.
3. MassHealth did not receive the corroborative information by the due date.
4. On May 19, 2025, MassHealth determined that the appellant is not eligible because she did not give MassHealth the information it needs to decide her eligibility within the required time frame.
5. As of the hearing date, MassHealth had not received information necessary to decide the appellant's eligibility.
6. As of the end of the record open period, MassHealth had not received information necessary to decide the appellant's eligibility.

## **Analysis and Conclusions of Law**

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 515.008, applicants or members must cooperate with MassHealth in providing information to establish and maintain eligibility and must comply with all of the rules and regulations governing MassHealth, including recovery and obtaining or maintaining other health insurance. MassHealth requests all corroborative information necessary to determine eligibility. (130 CMR 516.001).

To obtain the corroborative information, MassHealth sends the applicant written notification requesting corroborative information generally within five days of the receipt of the application. (130 CMR 516.001(B)). The notice advises the applicant that the requested

information must be received within 30 days of the date of the request, and of the consequences of failure to provide the information. (130 CMR 516.001(B)). If the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied. (130 CMR 516.001(C)).

The appellant's representative did not dispute the fact that the appellant received proper notices requesting information. (130 CMR 516.001). The appellant's representative acknowledged at the hearing that they had not provided all of the information necessary to determine eligibility.

The record was held open to give the appellant the opportunity to provide the information necessary to determine eligibility. During the record open period, MassHealth did not receive all of the information necessary to determine eligibility. Instead, the appellant's representative requested that the Board of Hearings issue at least three subpoenas to institutions where the appellant holds accounts.

A subpoena under 130 CMR 610.000 is a document that commands a witness to appear at a given time to give testimony at an administrative proceeding. (130 CMR 610.052(A)). A subpoena can also require the witness to produce for the administrative proceeding any books, documents, papers, or records in his or her possession or control. (130 CMR 610.052(A)). Any party to a hearing and the Board of Hearings on its own have the right to request a subpoena requiring the attendance and testimony of witnesses and the production of any evidence including books, records, correspondence, or documents relating to any matter in question at the hearing. (130 CMR 610.052(B)). Any party may submit to the Board of Hearings a written request for the issuance of such subpoena. If, in its discretion and in accordance with 130 CMR 610.065(B), the Board of Hearings allows such request, a subpoena will be issued within three business days of receipt of such request. (130 CMR 610.052(B)).

While a party has the right to submit a request for a subpoena as part of the appeal process, the regulations provide discretion for the Board of Hearings to approve such a request. This discretion is based upon the request being relevant, timely and necessary to obtain information for a hearing. It is not part of the application process. The appellant's representative failed to demonstrate that they have taken affirmative steps to obtain the information necessary to determine eligibility from the institutions and that the entity has failed to cooperate. Instead, it appears that the appeal representative simply wanted to obtain information utilizing a means that could bypass authorization of interested parties such as the appellant's spouse. That is not the purpose of a subpoena. Therefore, the request for the issuance of subpoenas was denied.

In this case, MassHealth acted within its discretion to deny the appellant's application for long-term care coverage. (130 CMR 516.001(C)). The decision made by MassHealth was correct.

This appeal is 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.

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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

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