

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2154630
Decision Date:	9/17/2021	Hearing Date:	7/21/2021
Hearing Officer:	Cynthia Kopka	Record Open to:	8/20/2021

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Michelle Carvalho, Taunton
Brittney O'Garro, Premium Billing



*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:	Approved in part; Denied in part	Issue:	Premium billing
Decision Date:	9/17/2021	Hearing Date:	7/21/2021
MassHealth's Rep.:	Michelle Carvalho, Brittney O'Garro	Appellant's Rep.:	Pro se
Hearing Location:	Taunton (remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

By notice dated March 2, 2021, MassHealth notified Appellant that coverage for her child would end on March 16, 2021 due to withdrawal. Exhibit 1. Appellant filed this timely appeal on June 18, 2021. Exhibit 2. 130 CMR 610.015(B).¹ Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through August 20, 2021 for the submission of additional evidence. Exhibits 6, 14.

Action Taken by MassHealth

MassHealth notified Appellant that coverage for her child would end on March 16, 2021 due to withdrawal.

Issue

The appeal issue is whether Appellant is obligated to pay the MassHealth premium.

¹ MassHealth's Eligibility Operations Memo (EOM) 20-09 extended the 30 day deadline to request a fair hearing to 120 days during the COVID-19 national emergency.

Summary of Evidence

The MassHealth eligibility representative appeared via telephone and testified as follows. Appellant lives in a household of two with her minor child. Appellant's income is \$720 per week or \$3,119.76 per month, which is 285% of the federal poverty level (FPL). Appellant's minor child was active on MassHealth's Family Assistance benefit from November 19, 2019 through March 16, 2021 with a monthly premium of \$20. On March 2, 2021, MassHealth received a call from Appellant to withdraw from the coverage. The withdrawal would be effective two weeks following the call. Exhibit 1. The MassHealth eligibility representative testified that there were no notes in the eligibility system referring to a cancellation of coverage prior to March 2, 2021. The MassHealth eligibility representative noted that a renewal notice was sent to Appellant on January 1, 2020 which was never returned. However, Appellant's Family Assistance coverage remained in effect due to an automatic override on March 13, 2020, as no one was being terminated due to the COVID-19 emergency.

The MassHealth premium billing representative appeared via telephone and testified as follows. On November 29, 2019, MassHealth sent a letter to Appellant to an address in [REDACTED] notifying Appellant that her child was approved for Family Assistance coverage with a monthly premium of \$20 beginning December 2019. Exhibit 4 at 5. This notice informed Appellant that she must cancel the benefits with 60 days of the date Appellant was notified of the premium. *Id.* at 6. The MassHealth premium billing representative testified that MassHealth sent bills to Appellant at an address in [REDACTED] beginning in November 21, 2019 through March 2021. However, documents submitted after the hearing only showed two bills sent to Appellant at her current address in [REDACTED]. These bills from June 2021 and July 2021 show a total outstanding balance of \$340. Exhibit 9. A spreadsheet submitted for hearing also shows an outstanding balance of \$340 for premiums from December 2019 through March 2021. Exhibit 4 at 3-4.

The MassHealth premium billing representative testified that in the past, Appellant had coverage beginning December 18, 2018 which was cancelled on November 3, 2019. The coverage was reactivated November 29, 2019. The notes in the system indicated that the coverage was reinstated as Appellant was trying to get medications covered for her child. The screenshot of a system note was provided by Premium Billing. *Id.* at 54. The MassHealth premium billing representative testified that this note indicated that Appellant was seeking reactivation of coverage. The note, dated December 2, 2019, states:

last Wed went to phama to get prescription b/c mbr needs on daily basis
was told term
called MH and was transferred to MEC sounds like Michael Burgess who left mbr acct in
OPEN status b/c just need mother NCP form
mother just sent NCP form today

Id. There are no system notes from November 29, 2019 or prior demonstrating why the coverage was reinstated in the hearing record. The MassHealth eligibility representative indicated that Appellant did not submit an NCP (non-custodial parent) form to MassHealth. Exhibit 11.

The MassHealth premium billing representative testified that Appellant did not use the benefit during the time period in question, as no claims were filed.

Appellant appeared by phone and testified as follows. Appellant's child was on MassHealth for a long time. In November 2019, Appellant received a substantial pay raise and was no longer eligible for benefits, so Appellant received a letter stating that her coverage was cancelled. Appellant called MassHealth and spoke to an individual who informed her that she was terminated because her income was too high to qualify. Appellant stated that the conversation ended. The next day, Appellant applied with her employer for a family insurance plan and added her child to the coverage. Exhibit 7. Appellant's child has been utilizing the private insurance since MassHealth cancelled coverage. Appellant pays \$195 monthly for her child's family insurance and would have not added the child to her private insurance had she known she qualified for MassHealth with a monthly premium of only \$20. Regarding the phone call that resulted in MassHealth being reinstated, Appellant was not aware that the coverage was reinstated as a result of this phone call. She believed she may have mentioned expressing concern about her child's prescriptions to the representative on the phone, but did not believe this was a basis for the reinstatement. Appellant did not receive the November 2019 letter notifying her that the coverage was reinstated with a \$20 premium. The next notice Appellant received from MassHealth was a bill in the \$100-\$200 range. Appellant believed the first bill she received in the mail was in January 2021. At this time, Appellant tried calling and writing to MassHealth inquiring why she is receiving bills. Appellant did not receive a response to these efforts, likely due to the pandemic. Prior to being terminated, Appellant never missed a payment and never had a late payment. Appellant cancelled her automatic payment to MassHealth upon the cancellation of benefits in November 2019.

Appellant testified that she has been at her current address in [REDACTED] since November 2020. Appellant had her mail forwarded from her former [REDACTED] address for approximately six months. Appellant updated her address with MassHealth in March 2021 when she called to inquire about the bills and ultimately withdrew from coverage. Prior to that, she had no reason to believe she was on MassHealth and did not have reason to update her address.

The hearing record was held open through July 28, 2021 and re-opened through August 20, 2021 for additional information. Exhibit 6, 14. Additional documents were submitted by all parties. Exhibits 8-13. The January 21, 2020 renewal notice was sent to Appellant at her [REDACTED] address.² The notification states that Appellant's coverage may end or decrease on March 6, 2020 if the renewal was not submitted. Exhibit 4 at 11. The MassHealth representative testified that the address in MassHealth's HIX system is the [REDACTED] address, and the address in MA21 is a [REDACTED] address. Exhibit 8. Appellant provided that she lived in [REDACTED] 2013 and 2014. Appellant moved from [REDACTED] to [REDACTED] in September 2019. Exhibit 13.

² It is not clear when Appellant updated her address from [REDACTED] to [REDACTED], but MassHealth's premium billing representative stated that it was on or before January 3, 2020.

Findings of Fact

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

1. Appellant lives in a household of two with her minor child. Appellant's income is \$720 per week or \$3,119.76 per month, which is 285% of the federal poverty level (FPL).
2. Appellant lived in [REDACTED] until September 2019, when she moved to [REDACTED]. Exhibit 13.
3. Appellant updated her address with MassHealth on or before January 3, 2020. Exhibit 12.
4. In November 2020, Appellant moved from [REDACTED] to [REDACTED]. Exhibit 10 at 3.
5. On December 18, 2018, MassHealth notified Appellant by letter mailed to her [REDACTED] address that Appellant's minor child was approved for Family Assistance with a monthly premium of \$20 beginning January 2019. Exhibit 8 at 7.
6. On November 3, 2019, MassHealth terminated Appellant's coverage effective November 17, 2019 for failure to provide requested information. MassHealth sent this notice to her [REDACTED]. *Id.* at 3.
7. Appellant paid the \$20 premium through October 2019. Exhibit 4 at 3.
8. On November 29, 2019, MassHealth notified Appellant by letter sent to her [REDACTED] address that her child was approved for Family Assistance coverage with a monthly premium of \$20 beginning December 2019. This notice informed Appellant that she must cancel the benefits with 60 days of the date Appellant was notified of the premium. *Id.* at 5-6.
9. A note from MassHealth's system dated December 2, 2019 states:

last Wed went to phama to get prescription b/c mbr needs on daily basis
was told term
called MH and was transferred to MEC sounds like Michael Burgess who left
mbr acct in OPEN status b/c just need mother NCP form
mother just sent NCP form today

Exhibit 4 at 54.
10. MassHealth did not receive an NCP form from Appellant on November 29, 2019. Exhibit 11.

11. On January 21, 2020, MassHealth sent a renewal notice to Appellant at her address in [REDACTED]. This renewal notice states that Appellant must renew by March 6, 2020 or benefits may end or decrease. Exhibit 4 at 11.
12. On February 3, 2020, a notice generated by MassHealth's MA21 system was sent to Appellant at an address in [REDACTED] stating that her coverage would terminate on February 17, 2020 because she is not a resident of Massachusetts. Exhibit 5.
13. Appellant lived in [REDACTED] in 2013 and 2014. Exhibit 10.
14. Due to protections in place in response to the COVID-19 national emergency, Appellant's Family Assistance coverage did not terminate and was automatically renewed on March 13, 2020.
15. Premium Billing sent bills to Appellant at her [REDACTED] address but did not provide copies of these bills for the hearing record. Premium Billing provided copies of two bills from June and July 2021 with a balance of \$340. These bills are addressed to Appellant's [REDACTED] address. Exhibit 9.
16. On March 2, 2021, Appellant called MassHealth and withdrew from the Family Assistance coverage, which MassHealth terminated effective March 16, 2021. Exhibit 1.
17. Appellant filed this appeal on June 18, 2021. Exhibit 2.
18. The MassHealth premium billing representative testified that Appellant's child never used the benefit during the period in question, as no claims were filed.

Analysis and Conclusions of Law

MassHealth may charge a monthly premium to members with MassHealth Standard, CommonHealth, or Family Assistance who have income above 150 percent of the federal poverty level (FPL), as provided in 130 CMR 506.011. If the member contacts MassHealth by telephone, in writing, or online and requests a voluntary withdrawal within 60 calendar days from the date of the eligibility notice and premium notification, MassHealth premiums are waived. 130 CMR 506.011(C)(5). It is the member's responsibility to notify MassHealth of his or her intention to withdraw from coverage. 130 CMR 506.011(H). If the voluntary withdrawal is not made within 60 calendar days from the eligibility notice and premium notification, coverage may continue through the end of the calendar month of withdrawal, and the member is responsible for the payment of all premiums up to and including the calendar month of withdrawal. *Id.* MassHealth may terminate a member's eligibility for benefits if a premium bill is not paid within 60 days. 130 CMR 506.011(D)(1).

The evidence is clear that Appellant was terminated from MassHealth on November 3, 2019 and Appellant apparently received the termination notice, even though it was sent to her old address in

██████████ The record shows that Appellant was reinstated to the same benefit level with the same premium on November 29, 2019, by notice also sent to the ██████████ address. Appellant testified that she did not receive the reinstatement notice. It is not clear if Appellant timely updated her address with MassHealth, so MassHealth may or may not have been at fault in failing to notify Appellant. It is a member's obligation to provide timely updates to MassHealth. 130 CMR 501.010(B).

However, there is no clear reason provided by either party as to why the reinstatement on November 29, 2019 occurred. MassHealth relied on the December 2, 2019 phone call referencing the need for pharmacy coverage to explain the reinstatement, but this call came **after** the November 29, 2019 notice reinstating coverage. The note from the December 2, 2019 phone call seems to suggest that an eligibility worker reopened the case pending the submission of a non-custodial parent form, but apparently the form was not received according to MassHealth. The evidence presented tends to support Appellant's confusion as to the circumstances of reinstatement. Other evidence, such as the fact that Appellant's child never used the coverage and Appellant added the child to her private insurance at a significantly higher rate also supports Appellant's version of events, particularly her claim that she did not receive the reinstatement notice. Finally, Appellant testified that she did not receive bills until 2021 and MassHealth did not provide evidence to rebut this.

On the one hand, the evidence in the record is inconclusive to show that MassHealth failed to notify Appellant of the November 29, 2019 reinstatement of Family Assistance coverage. Therefore it is not clear whether Appellant's failure to cancel the coverage within 60 days was due to MassHealth's error or Appellant's failure to provide an updated address in a timely manner. On the other hand, Appellant's testimony that she was unaware that she had this coverage is credible and supported by evidence. Under normal circumstances, MassHealth would have cancelled Appellant's coverage on March 6, 2020 for failure to submit the renewal, or in February or March 2020 after Appellant failed to pay the December and January premiums. The fact that Appellant's coverage was not cancelled as it would have been due to a protection in place is an anomalous result, as Appellant ended up penalized by the protection. Accordingly, I find that Appellant is obligated to pay for the Family Assistance premium through January 2020, when the coverage would have ordinarily been cancelled pursuant to 130 CMR 506.011(D)(1) for failure to pay. *See* 130 CMR 506.011(H). To the extent that Appellant does not owe the full balance of \$340, this appeal is approved in part. To the extent Appellant owes MassHealth \$40, this appeal is denied in part.

Order for MassHealth

Adjust the termination date of Appellant's MassHealth Family Assistance to January 31, 2020 and the total balance of the premium owed to \$40.

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.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc: Justine Ferreira, Taunton MassHealth Enrollment Center
Premium Billing