

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; denied in part	Appeal Number:	2155601
Decision Date:	10/26/2021	Hearing Date:	9/1/2021
Hearing Officer:	Cynthia Kopka	Record Open to:	9/8/2021

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Catherine Lopez, Chelsea
Brittany 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:	10/26/2021	Hearing Date:	9/1/2021
MassHealth's Rep.:	Catherine Lopez and Brittany O'Garro	Appellant's Rep.:	Pro se
Hearing Location:	Chelsea (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

By notices dated May 28, 2021, MassHealth notified Appellant that coverage would end for her children on June 11, 2021 due to voluntary withdrawal. Exhibit 1. Appellant filed this timely appeal on July 22, 2021. Exhibit 2.¹ 130 CMR 610.015(B). Challenging the termination or scope of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through October 21, 2021 for the submission of additional evidence. Exhibit 5, 7.

Action Taken by MassHealth

MassHealth notified Appellant that her children's coverage would terminate on June 11, 2021 due to withdrawal.

Issue

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

¹ During the national emergency caused by the Covid-19 pandemic, MassHealth extended the deadline to request a hearing from 30 days to 120 days. MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020.

Summary of Evidence

The MassHealth eligibility representative appeared via telephone and testified as follows. On September 14, 2020, Appellant reapplied for MassHealth benefits. Appellant reported her income to be \$1,967.65 biweekly, which MassHealth calculated to be \$4,263.90 monthly and \$51,166.77 yearly. For a household of four, this was 190.29% of the federal poverty level (FPL). Appellant qualified for a Health Connector plan and her three children qualified for MassHealth Family Assistance. Exhibit 4 at 5-7. The September 14, 2020 approval notice mailed to Appellant at her address in [REDACTED] states that Appellant will receive a bill for \$36 beginning October 2020 which covers the premiums for her three children. The notice states that if Appellant does not want to pay the premium, she must tell MassHealth to cancel her benefits “within 60 days of the date you were notified of a new or changed premium.” *Id.* at 6. MassHealth had the Roxbury address on file until May 24, 2021, when Appellant called to update it to a post office box.

On April 5, 2021, Appellant updated her employer income and was still eligible for the same benefit level. On May 28, 2021, MassHealth notified Appellant that she voluntarily withdrew her children from the Family Assistance benefit.

The MassHealth premium billing representative appeared via telephone and testified as follows. Appellant owes premiums due for the months of October 2020 through February 2021. *Id.* at 4. From October through December 2020, MassHealth sent bills and a 60-day late notice to the same address in [REDACTED]. *Id.* at 11-14. Beginning in January 2021, MassHealth sent bills and late notices to Appellant’s post office box. *Id.* at 15-24. The MassHealth premium billing representative stated that the billing office may have received a notice of mail forwarding, which prompted the change in address in their process. Premium Billing did not explain why Appellant was not billed beyond February 2021. Normally coverage may be terminated after failure to pay, but MassHealth maintained coverage for members during the pandemic.² Finally, the premium billing representative testified that Appellant’s child used the MassHealth benefit once, on May 23, 2021. MassHealth paid \$45.87 for a physician’s visit on the child’s behalf.

Appellant appeared by phone and testified as follows. Appellant went to Dorchester House for help applying and see if she qualified for MassHealth. When she was told that she qualified for a plan with a premium attached, Appellant told the representative at the Dorchester House that she was not interested. Appellant was already paying for insurance for herself and her children through her employer. Appellant told the representative to cancel the coverage for everyone. Appellant testified that there was a miscommunication with the representative at Dorchester House, but Appellant was confident that she told the representative that she did not want coverage for any of her family.

During the pandemic, Appellant was not receiving mail on a regular basis. Appellant did not receive the approval notice or the first few bills. Appellant confirmed that MassHealth had the correct

² When asked why Appellant was not billed for the months of March through May 2021, the Premium Billing representative stated that Appellant’s bills stopped due to the public health emergency.

address but there was a problem with the post office. Appellant obtained a post office box at the end of 2020, which became her primary mailing address. Appellant did not indicate that she had difficulty receiving mail at the post office box and testified that she checked it every few days.

Appellant did not receive any mail from MassHealth until receiving a bill in May 2021. At this time, she called the Dorchester House representative and asked why. The Dorchester House representative told Appellant that she cancelled Appellant's coverage, but not the children's. At this time, the Dorchester House representative made a three-way call to MassHealth to inquire. Appellant stated that it took a few phone calls to cancel the coverage. The Dorchester House representative did not tell MassHealth that the mistake was hers, because she would not take the blame for it. Appellant argued that she should not have to pay a bill due to the mistake of the Dorchester House representative.

Appellant never received a MassHealth card. The physician's office that billed MassHealth must have found the coverage in the system, because Appellant did not give the physician's office a MassHealth card. Appellant understood that she may be personally responsible for the money paid to the doctor's office if the outcome she seeks at hearing was cancellation of the benefit.

The hearing record was held open through October 21, 2021 to obtain the call log from Premium Billing and to allow Appellant time to review and respond to the documents submitted for hearing. Exhibits 5, 7. The call log indicates that Appellant called with the representative from Dorchester House on the line to withdraw from coverage on May 27, 2021. Appellant told the representative on the phone that she did not receive the approval letters from September 14, 2020 and wanted the premium waived. Exhibit 6.

Findings of Fact

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

1. Appellant lives in a household of four with her minor children. Appellant's income is \$4,263.90 monthly and \$51,166.77 yearly, which is 190.29% of the FPL.
2. On September 14, 2020, MassHealth approved Appellant's children for Family Assistance coverage with a total monthly premium of \$36 beginning October 2020. Exhibit 4 at 5-7.
3. MassHealth mailed the approval notice to Appellant's address in [REDACTED]
4. On April 5, 2021, Appellant updated her employer income and was still eligible for the same benefit level.
5. From October through December 2020, MassHealth sent premium bills and a 60-day late notice to the [REDACTED] address. *Id.* at 11-14.
6. Beginning in January 2021, MassHealth sent bills and late notices to Appellant's post office

box. *Id.* at 15-24.

7. Appellant was billed \$180 for five months of premiums from October 2020 through February 2021. *Id.* at 4.
8. On May 23, 2021, MassHealth paid \$45.87 for a physician's visit for Appellant's child.
9. On May 24, 2021, Appellant updated her address in MassHealth's system to her post office box.
10. On May 27, 2021, Appellant and the representative from Dorchester House called MassHealth to inquire about the premiums. Appellant told MassHealth that she did not receive the approval notice mailed September 14, 2020. Exhibit 6.
11. On May 28, 2021, MassHealth notified Appellant that she voluntarily withdrew her children from the Family Assistance benefit. Exhibit 1.
12. Appellant filed a timely appeal on July 22, 2021. Exhibit 2.

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).

Here, Appellant applied for MassHealth with the assistance from a representative of Dorchester House. The evidence demonstrated that the Dorchester House representative erred in not cancelling Appellant's Family Assistance coverage when Appellant requested. Appellant testified that she did not receive the September 14, 2020 approval notice or bills mailed to her Roxbury address. It is not clear why Appellant did not receive any of the bills mailed to the post office box prior to May 2021. It is also not clear why Premium Billing stopped charging Appellant the monthly premium after February 2021 even though the coverage continued through May 2021. Premium Billing's explanation that the bills stopped because of the public health emergency is confusing given that the entire period in question occurred during the Covid-19 pandemic. While it makes sense why MassHealth would not terminate the coverage in an

effort to offer protection during the pandemic, the decision to bill members a premium for some months of coverage and not others seems arbitrary.

MassHealth did not make an error in approving coverage on September 14, 2020 or mailing the approval notice to Appellant's [REDACTED]. Appellant does not dispute this and asserts that the issues here were with Dorchester House and Appellant's difficulty receiving mail. Therefore, Appellant has not demonstrated that MassHealth erred in approving Appellant's children for Family Assistance and in charging a monthly premium. However, had there not been a protection in place due to the pandemic, MassHealth would ordinarily have cancelled Appellant's benefit after she failed to pay the premium for two months.

Accordingly, I find that Appellant is obligated to pay for the Family Assistance premium through November 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 \$180, this appeal is approved in part. To the extent Appellant owes MassHealth \$72, this appeal is denied in part. Finally, Appellant acknowledged that she may be responsible for the payment made by MassHealth to the physician's office, as it was during a time when this ruling deemed her ineligible for benefits.

Order for MassHealth

Adjust the termination date of Appellant's MassHealth Family Assistance to November 30, 2020 and the total balance of the premium owed to \$72.

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:

MassHealth Representative: Maximus Premium Billing, Gretchen Whitworth, 55 Summer Street, 8th Fl., Boston, MA 02110, 978-580-6531