

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2155608

**Decision Date:** 10/06/2021

**Hearing Date:** 09/01/2021

**Hearing Officer:** Radha Tilva

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Liz Nickoson, Taunton MEC Rep.

**Interpreter:**



*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>	Eligibility
<b>Decision Date:</b>	10/06/2021	<b>Hearing Date:</b>	09/01/2021
<b>MassHealth's Rep.:</b>	Liz Nickoson	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center		

## 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 July 3, 2021, MassHealth determined that appellant will be terminated from MassHealth coverage effective July 17, 2021 because he did not provide proof of the information requested in the time allowed (Exhibit 1). The appellant filed this appeal in a timely manner on July 20, 2021 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth terminated MassHealth benefits effective July 17, 2021 because appellant determined that it did not provide proof of the information requested in the time allowed.

## Issue

The appeal issue is whether MassHealth was correct in terminating MassHealth benefits effective July 17, 2021.

## Summary of Evidence

MassHealth was represented by a case worker from Tewksbury who appeared by telephone. The appellant appeared by telephone as well along with a Vietnamese interpreter provided by the Board of Hearings. The issue on appeal is a July 3, 2021 termination notice of MassHealth benefits effective July 17, 2021 for failure to verify (Exhibit 1). The termination notice was prompted as a result of a verification request sent to appellant on May 28, 2021 requesting proof of income and residency for both appellant and his wife that was due on June 27, 2021 (Exhibit 5). The MassHealth case worker stated at hearing that MassHealth was still missing proof of residency and income. The representative explained, however, that both income and residency can be verified on the phone. The MassHealth case worker verified the address with appellant over the phone. The appellant verified his income as well and stated that it fluctuates week to week with overtime. The appellant also verified his wife's income. The MassHealth worker testified that appellant had MassHealth Standard from 2017 to 2019 and then Partial Health Safety Net. All of 2020 he was on a Connector Care plan; however, the MassHealth representative stated that if he had private insurance in 2020, he would not have been eligible for a Connector Care plan.

After the MassHealth representative verified the income on the telephone she was able to make an eligibility determination and it was explained that an eligibility notice would be issued to appellant. It was also explained that the children remained eligible for MassHealth Standard benefits. It was explained that appellant's income is too high for MassHealth. The MassHealth representative explained that for a family of four the income limit is \$35,256.00 a year. The MassHealth representative stated that the gross family household income is \$3,750.00 a month or \$45,000.00 for the year.

The appellant stated that he receives health insurance from Comcast, where he works, but wants MassHealth to be a secondary insurance to help him pay for his co-payments. The appellant also stated that he used to receive MassHealth for 15 years then he became an employee with Comcast. The appellant spoke to a MassHealth supervisor who said that this was possible which is why he got the Comcast insurance. The appellant stated that he has a wife and three children and that his wife used to get SSI benefits, but those were terminated and he is left with having to pay \$50.00 a month back to the Social Security Administration. Appellant's wife is currently working even though she is sick. The appellant stated that he just needs MassHealth to help assist him with copayments and medications at the pharmacy. The appellant stated that his income fluctuates. It was explained to him by the MassHealth representative that he can provide any recent paystubs he wants to change the income with MassHealth. It was also explained to appellant that he would receive a new eligibility notice from MassHealth which he could appeal if he disagreed with the income calculation.

## **Findings of Fact**

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

1. MassHealth sent a notice dated July 3, 2021, informing the appellant that his MassHealth benefits would be terminated on July 17, 2021 because he had not returned requested information in the required time frame.
2. Appellant timely appealed the request and a hearing occurred on September 1, 2021.
3. The MassHealth representative stated that the reason for the termination was that MassHealth was missing proof of residency and income.
4. At hearing the appellant's address and income were verified.
5. The MassHealth representative stated that a new eligibility notice with new appeal rights would issue.

## **Analysis and Conclusions of Law**

Pursuant to 130 CMR 502.001(B), a member is given 90 days from the date of request to return any corroborative information requested by MassHealth. If the necessary information is not received within 90 days of the receipt of the Request for Information Notice, as described at 130 CMR 502.003(C), with the exception of the individuals described at 130 CMR 502.001(D)(1) through (4), the MassHealth agency will attempt to redetermine eligibility using electronic data sources, if available, but if such information is not available from these sources, the applicant's MassHealth benefits will be denied or terminated, as described in 130 CMR 502.003(D)(2).

On May 28, 2021, MassHealth sent a letter requesting appellant submit residency and proof of income. 90 days from that date would be on or around August 29, 2021. The termination notice, however, issued on July 3, 2021 which is before the 90-day period. Therefore, the MassHealth termination notice was preemptive and benefits should not have been terminated until after August 29, 2021. However, appellant disclosed at hearing that he had private health insurance which the MassHealth representative explained makes him ineligible for the Health Connector. Therefore, reinstating benefits is not warranted. Based on the above analysis this appeal is DENIED. Appellant may appeal the new eligibility notice issued by MassHealth if he disputes the income calculation. In addition, appellant may also apply for Premium Assistance to determine if MassHealth can assist with paying for his private health insurance.

## **Order for MassHealth**

Redetermine eligibility based on information provided at hearing.

## **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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Radha Silva  
Hearing Officer  
Board of Hearings

cc: Justine Ferreira, Taunton MassHealth Enrollment Center