

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed-in-part; Approved-in-part	Appeal Number:	2178632
Decision Date:	12/22/2021	Hearing Date:	12/20/2021
Hearing Officer:	Casey Groff		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Elizabeth Martinez of the Tewksbury MEC



*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:	Dismissed-in-part; Approved-in-part	Issue:	Eligibility
Decision Date:	12/22/2021	Hearing Date:	12/20/2021
MassHealth's Rep.:	Elizabeth Martinez	Appellant's Rep.:	Pro se
Hearing Location:	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

Through a notice dated October 23, 2021, MassHealth determined that Appellant did not qualify for MassHealth, Health Safety Net (HSN), or the Children's Medical Security Plan (CMSP) because she did not submit proof of income within the time allowed. See Exh. 1, pp. 4-5 and 130 CMR 502.003(D). Appellant filed this appeal in a timely manner on November 11, 2021. See Exh. 1, p. 1 and 130 CMR 610.015(B). The Board of Hearings scheduled a hearing for the appeal to be conducted on December 20, 2021. See Exh. 2. At the hearing, Appellant stated that she also sought to appeal a December 9, 2021 MassHealth HSN approval notice because she wanted to challenge the effective coverage start date of November 1, 2021.¹ See Exh. 3. With the consent of the parties, both notices were addressed during hearing and have been consolidated into the instant

¹ Pursuant to MassHealth Fair Hearing Regulations 130 CMR 610.001 *et. seq.* and 130 CMR 501.009(H), an applicant has the right to appeal and request a fair hearing as the result of any adverse action or inaction taken by the MassHealth agency. While Health Safety Net (HSN) is a separate medical assistance payment program apart from the enumerated MassHealth coverage-types, it is nevertheless operated within the Office of Medicaid as established under M.G.L. c. 118E, § 65. See 101 CMR 613.02. The office of HSN does offer a separate grievance process for impacted individuals; however such grievances appear to be limited to determinations of Low Income Patient Status, Provider compliance with provisions of 101 CMR 613.00, or Medical hardship eligibility determination. See 101 CMR 613.04(5). "Eligibility for HSN is determined by MassHealth" See MassHealth Member Booklet for Health and Dental Coverage and Help Paying Costs [ACA-1 (07/21)], p. 25. Based on these factors, Appellant may seek to challenge MassHealth's determination as to an HSN effective date through the fair hearing process as outlined in 130 CMR 610.001 *et. seq.*

appeal. See 130 CMR 610.013(B).

Actions Taken by MassHealth

(1) MassHealth denied Appellant's application for coverage because she did not submit proof of eligibility within the time allowed; and (2) once such information was received after the verification deadline passed, MassHealth approved Appellant for HSN with an effective date of November 1, 2021.

Issues

The appeal issues are (1) whether MassHealth was correct in denying Appellant's request for coverage because she did not submit proof of eligibility within the time allowed; and (2) whether upon receiving such proof after the deadline, MassHealth correctly determined that Appellant was eligible for HSN with an effective start date of November 1, 2021.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by telephone. Through testimony and documentary submissions, MassHealth presented the following information: Appellant is in a household of two, consisting of Appellant and her minor son. Her son has had continuous coverage of MassHealth Family Assistance since at least 2018. Additionally, Appellant had partial health safety net (HSN) dental-only coverage since 2018. Appellant's primary insurance is provided through her employer. According to system notes, on April 27, 2021, Premium Assistance made a change to Appellant's case that caused her HSN dental to terminate on July 16, 2021. The reason noted in the termination was that Appellant's income was too high. On July 22, 2021, Appellant spoke with a MassHealth customer service representative, during which Appellant reported a change in her Modified Adjusted Gross Income (MAGI) which would put Appellant in a federal poverty limit (FPL) of 280.37% (lower than what MassHealth previously had as 334.59%). The call notes reflected that Appellant would submit verification of the reported income. Based on the call, MassHealth generated a "request for information" dated July 22, 2021, requesting that Appellant provide proof of income by October 20, 2021. On October 23, 2021, after having not received proof of income, MassHealth denied Appellant's request for coverage for all subsidized medical assistance programs, including MassHealth, Health Safety Net (HSN), and the Children's Medical Security Plan (CMSP). See Exh. 1.

On November 11, 2021, Appellant sent MassHealth and the Board of Hearings (BOH) the outstanding verification of income. See Exh. 1, pp. 6-7. Included with the verifications, Appellant submitted a request for a fair hearing on the October 23rd notice. Id. at 1. On December 7, 2021, after processing Appellant's verification of income, MassHealth notified Appellant that while Appellant did not qualify for MassHealth, she was eligible for HSN, effective November 1, 2021. See Exh. 3. The December 7th notice indicated that based on information received, Appellant's household income put her at 287.37% of the FPL and that she had an annual HSN deductible of

\$6,087.94. Id. The MassHealth representative explained that because Appellant did not submit the verifications to MassHealth by the deadline of October 20th, MassHealth could only apply coverage 10 days retroactive to the date the verifications were received – which in this case would be November 1, 2021. MassHealth testified that while there are some protections due to the COVID pandemic that permit MassHealth to implement a 90-day retroactive coverage period, such protections would not apply in this case. Specifically, Appellant’s son has always had an open benefit with Family Assistance and therefore Appellant’s case has never been closed (despite her losing her HSN dental coverage). Thus, Appellant does not meet criteria as a “new applicant” for purposes of the relevant COVID protection. Following the hearing, the MassHealth representative affirmed this position and submitted into evidence the MassHealth policy reflecting this determination. See Exh. 5.

Appellant appeared at the hearing by telephone and provided the following background: In December of 2020, she, as head of household for her and her son, completed a MassHealth annual eligibility renewal. As a result of the renewal, MassHealth approved her for continued coverage of HSN dental and approved her son for his continued coverage of Family Assistance. On July 16, 2021, for reasons unknown to her, MassHealth terminated her HSN coverage. Her son’s Family Assistance coverage remained active. Appellant stated that the termination of her coverage was error as there had been no change in her income since she did her renewal. On July 22, 2021, Appellant called MassHealth to request reinstatement of coverage. During the call, she completed a new application with the customer service representative and went through a whole process of answering questions, including all information related to her current income. The customer service representative informed her that she should qualify based on income reported and that she would just need to submit verification of income. Appellant testified that her income as of the hearing date is the same as it was when she reported it in July and there have been no changes in her job.

Appellant testified that after she received MassHealth’s October 23rd denial, she submitted the proof of income, which confirmed the income she reported in the July 22nd call with MassHealth. See Exh. 1. She also appealed the October 23rd notice asking that her July 22nd application date be preserved. See Exh. 1. On December 7, 2021, prior to the scheduled hearing, MassHealth informed Appellant that she qualified for HSN based on the income verified; however, the effective start date was November 1, 2021. Appellant requested that the coverage be backdated to the date of her July 22nd application. Appellant re-iterated that her coverage should never have been terminated in the first place. Appellant relies heavily on HSN to cover the substantial medical expenses that her employer sponsored health insurance does not cover. Appellant testified that in September and October of 2021, she had significant medical issues which left her with \$5,700 in medical expenses, which is what she owes after payment by her primary health insurance.

Findings of Fact

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

1. Appellant is in a household of two, consisting of Appellant and her minor son.
2. Appellant has primary health insurance provided through her employer.
3. Since 2018 Appellant's son has had continuous coverage of MassHealth Family Assistance.
4. In 2018, Appellant received partial health safety net (HSN) dental coverage secondary to her employer sponsored health insurance.
5. On April 27, 2021, Premium Assistance made a change in Appellant's case that caused her reported income to exceed eligibility limits for HSN coverage.
6. On July 16, 2021, as a result of the change, Appellant's HSN was terminated.
7. On July 22, 2021, Appellant spoke with a MassHealth customer service representative, and applied telephonically to have her coverage reinstated.
8. The MassHealth customer representative informed Appellant that based on her reported income she was at 280.37% of the FPL and would be eligible pending proof of income.
9. MassHealth issued a "request for information" dated July 22, 2021, requesting that Appellant provide proof of income by October 20, 2021.
10. On October 23, 2021, after having not received proof of income, MassHealth denied Appellant's request for coverage for all subsidized medical assistance programs, including MassHealth, Health Safety Net (HSN), and the Children's Medical Security Plan (CMSP).
11. On November 11, 2021, Appellant sent MassHealth and the Board of Hearings (BOH) the outstanding verification of income (ie paystubs) and submitted a request for a fair hearing on the October 23rd notice.
12. There had been no changes in Appellant's income since she initially reported it in July of 2021 and the paystubs verified that Appellant's income put her at 287.37% of the FPL.
13. On December 7, 2021, after processing Appellant's verification of income, MassHealth approved Appellant for HSN, effective November 1, 2021.

Analysis and Conclusions of Law

This appeal concerns two notices MassHealth sent to Appellant regarding her eligibility for government funded medical assistance programs. The first notice dated October 23, 2021,

informed Appellant that she did not qualify for MassHealth, HSN, or CMSP because she did not submit income verification by the required deadline of October 20, 2021. MassHealth issued the second notice on December 7, 2021 after Appellant submitted proof of income on November 11, 2021. The December 7th notice informed Appellant that while she was ineligible for MassHealth covered benefits, she was eligible, and approved, for HSN, effective November 1, 2021. Appellant's sole contention is that her HSN should be retroactively applied to the date of her application.

MassHealth eligibility regulations provide that an "applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility..." 130 CMR 501.010(A). During the enrollment and renewal process, the MassHealth agency will request "all corroborative information necessary to verify eligibility ..." 130 CMR 502.002(B). The MassHealth agency requires verification of eligibility factors, including income, residency, citizenship, and immigration status, and identity. See 130 CMR 502.003. To collect this information, MassHealth may issue a "request for information" notice to the applicant or member. See 130 CMR 502.003(C). It is then the applicant or member's responsibility to supply such information within 90 days of the receipt of the notice. See 130 CMR 502.002(B). If the member fails to submit the information to MassHealth within 90 days of the request, the applicant or member's benefits will be denied or terminated. See 130 CMR 502.002(D).

In this case, Appellant sought to have her coverage reinstated after MassHealth terminated her HSN Dental benefits on July 16, 2021. During a July 22, 2021 call with MassHealth, Appellant attested to various eligibility factors, including her current income. At that time, the MassHealth customer representative noted Appellant to be at 280.37% of the FPL based on her verbal reporting of income. Following the call, MassHealth generated a Request for Information, pursuant to 130 CMR 502.003(C), above, informing Appellant of her responsibility to provide proof of income by October 20, 2021 – 90 days from the information request. See 130 CMR 502.002(B). Having not received verification by the imposed deadline, MassHealth appropriately denied Appellant's request for coverage on October 23, 2021. See 130 CMR 502.002(D).

However, once an appeal is filed with the Board of Hearings, the effective date of an 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) (emphasis added). Additionally, "the hearing officer may not exclude evidence at hearing for the reason that it had not been previously submitted to the acting entity." See id. Although Appellant missed the verifications deadline of October 20, 2021, she did submit proof of income by sending paystubs to MassHealth and the Board of Hearings on November 11, 2021. As indicated in MassHealth's subsequent December 7, 2021 HSN approval notice, the paystubs confirmed the Appellant's income was at 287.37% of the FPL, as she had attested to during her July 22, 2021 telephonic application. Because the verifications were received after 90 days of the Information Request, MassHealth did not make coverage effective until November 1, 2021 – 10 days before the receipt of the verifications. See 130 CMR 502.003(D)(2)(c).² However, through the fair hearing process, Appellant successfully

² This provision states that when an applicant or member fails to submit the requested information within 90 days

demonstrated that she met all eligibility conditions as early as July 22, 2021 when she sought to re-activate her coverage. Under 130 CMR 610.071(A)(2), Appellant's effective date of eligibility for her existing HSN coverage is July 22, 2021.

Based on the foregoing, the appeal is DISMISSED-in-part, insofar as MassHealth received and processed the outstanding income verification following the October 23, 2021 denial. The appeal is APPROVED-in-part insofar as MassHealth's December 7, 2021 notice should be rescinded to reflect the effective HSN start date in accordance with this decision.

Order for MassHealth

Rescind December 7, 2021 notice; Adjust Appellant's current HSN coverage effective date to July 22, 2021; notify Appellant accordingly.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957

from the Information Request, but within one year from the date of the application, coverage is reinstated to a date 10 days before the receipt of verifications.