

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2178675
<b>Decision Date:</b>	02/10/2022	<b>Hearing Date:</b>	12/23/2021
<b>Hearing Officer:</b>	Scott Bernard	<b>Record Open to:</b>	12/27/2021

Appearance for Appellant:



Appearance for MassHealth:

Elizabeth Nickoson (Taunton MEC) *via*  
telephone



*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>	Under 65 – End of Coverage
<b>Decision Date:</b>	02/10/2022	<b>Hearing Date:</b>	12/23/2021
<b>MassHealth's Rep.:</b>	Elizabeth Nickoson	<b>Appellant's Rep.:</b>	
<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 October 15, 2021, MassHealth determined that the appellant did not qualify for MassHealth benefits because she was not in the household and that her coverage would end on October 29, 2021. (See 130 CMR 506.002 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on November 12, 2021. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the end of the hearing, the appellant's representative was given until December 27, 2021 to submit certain verifications at which time the hearing record closed.

## Action Taken by MassHealth

MassHealth determined that the appellant did not qualify for MassHealth benefits because she was not in the household.

## Issue

The first appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.002, in determining that the appellant was not in the household. The second appeal issue is whether this hearing officer has jurisdiction to change the start date of coverage for the appellant's plan through the Massachusetts Health Connector.

## Summary of Evidence

The MassHealth representative testified that the appellant was an individual under the age of 65. (Ex. 3). Prior to October 29, 2021, the appellant lived in the appellant's representative's household and received MassHealth Standard. (Ex. 3). On October 15, 2021, the appellant's representative submitted an annual eligibility review with the help of an assister at a health care facility. The appellant was removed from the household at that time. For that reason, MassHealth issued a notice on the same date informing the household that as of October 29, 2021, the appellant would not qualify for MassHealth because she was not in the household. (Ex. 1). On November 10, 2021, the appellant, with the help of another assister at the same hospital, reapplied for health coverage. It was found at that time that the appellant was eligible for ConnectorCare. The appellant was enrolled in a Tufts medical plan, which was backdated to October 31, 2021.<sup>1</sup>

The appellant's mother, who was the appellant's representative<sup>2</sup>, confirmed that she was helped by a hospital assister for the household's annual review which was due in October. At that time the appellant had gotten a new full-time job but had not started it. The appellant informed the assister that she would be filing her income taxes separately. The assister informed the appellant and the appellant's representative that the appellant would need to be removed from the household because she intended to file taxes separately. The assister also stated that if the appellant were removed from the household at that time, the changes would not go into effect until 2022. At some point after this but before November 10 (the appellant's representative was unsure of the date), the appellant had to go to urgent care. As a follow up to the urgent care appointment, the appellant scheduled an ultrasound for November 5. When the appellant went to the ultrasound appointment, she was informed that she did not have coverage. The appellant then went back to the hospital on November 10 and worked with another assister to sign up for ConnectorCare through Tufts. The new assister informed the appellant at that time that if she had not been removed from the household, she would still have continued to be eligible for MassHealth Standard.<sup>3</sup>

The appellant's representative stated that she was concerned because the date or dates the appellant did not have health care coverage. The appellant's representative stated that the appellant was billed for her urgent care visit. The appellant's representative stated that she was not sure if the urgent care visit occurred when the appellant was not covered. The MassHealth representative told the appellant's representative that she could have the urgent care provider rebill Tufts if the urgent care appointment occurred on or after the start date of her coverage there. The appellant's representative requested two days to submit documentation concerning the date of the urgent care visit.

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<sup>1</sup> The MassHealth representative actually stated that the coverage began on November 1. According to the Medicaid Management Information System (MMIS) printout that is part of the record, the coverage extended back to October 31, 2021. (See Ex. 3).

<sup>2</sup> After being sworn in, the appellant informed the hearing officer that she could not attend the hearing because of a scheduling conflict but gave her mother (also present) permission to represent her. The hearing officer considered the appellant's request as sufficient to allow her mother to act as the appellant's representative for the remainder of the hearing.

<sup>3</sup> The MassHealth representative confirmed that the appellant would have continued to be eligible for MassHealth Standard under the COVID-19 protections put in place by MassHealth. (See MassHealth Eligibility Operations Memo (EOM) 20-09).

The record was therefore left open until December 27, 2021 for the appellant's representative to submit the information concerning the urgent care visit. No further documentation was received on December 27, 2021 or thereafter. The record therefore closed on December 27, 2021.

## Findings of Fact

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

1. The appellant is an individual under the age of 65. (Testimony of the MassHealth representative; Ex. 3).
2. Prior to October 29, 2021, the appellant lived in the appellant's representative's household and received MassHealth Standard. (Ex. 3).
3. On October 15, 2021, a health care facility assister helped the family complete their annual MassHealth renewal. (Testimony of the MassHealth representative; Testimony the appellant's representative).
4. On the advice of the hospital assister, the appellant was removed from the household because she informed the assister that she intended to file her income taxes separately after starting a new full-time job. (Testimony of the appellant's representative).
5. On October 15, 2021, MassHealth issued a notice informing the household that as of October 29, 2021, the appellant would not qualify for MassHealth because she was not in the household. (Ex. 1).
6. On November 10, 2021, the appellant, with the help of another hospital assister, applied for health coverage. (Testimony of the MassHealth representative; Testimony of the appellant's representative).
7. It was found at that time that the appellant was eligible for a plan through the Massachusetts Health Connector. (Testimony of the MassHealth representative).
8. The appellant enrolled in a Tufts medical plan, and her coverage was effective as of October 31, 2021. (Ex. 3; Testimony of the appellant's representative).
9. At some point between October 29 and November 10, 2021, the appellant visited urgent care. (Testimony of the appellant's representative).
10. The appellant received a bill for her urgent care visit. (Testimony of the appellant's representative).
11. The appellant submitted an appeal of the October 15, 2021 notice on November 12, 2021. (Ex. 2).

## Analysis and Conclusions of Law

MassHealth reviews eligibility once every 12 months. (130 CMR 502.007(A)). Under normal circumstances MassHealth uses the eligibility review to determine if members continue to be eligible for their current coverage type; whether members' current circumstances require a change in coverage type, premium payment, or premium assistance payment; or whether the member is no longer eligible for MassHealth. (130 CMR 502.007(B)). Because of the COVID-19 national emergency, MassHealth has protected coverage for all individuals who had Medicaid coverage on or after March 18, 2020. (EOM 20-09). The protection will continue until the end of the month in which the national emergency period ends.. (Id.). Under these protections, members will not lose coverage or have a decrease in benefits. (Id.). There are exceptions, however, including when an individual requests termination of eligibility. (Id.).

If the individual requests termination of eligibility, MassHealth benefits terminate no sooner than 14 days from the date of termination or downgrade notice. (130 CMR 502.006(D)). If an appealable action involves the termination of assistance and is, in fact, appealed, assistance will continue until BOH decides the appeal if the BOH receives the initial request for the fair hearing before the implementation date of the appealable action; or, when such an appealable action was implemented before a timely request for a hearing, if the BOH receives the request for the fair hearing within ten days of the mailing of the notice of the appealable action. (130 CMR 502.006(D); 130 CMR 610.036(A)).

As part of the household's annual eligibility review on October 15, 2021, the appellant requested that she be removed from the household. Once the appellant requested removal, the COVID-19 protections ended and MassHealth could issue a notice terminating her continued eligibility. For that reason, MassHealth sent the appellant written notice on the same date that her coverage would end on October 29, 2021, which was, in accordance with the regulations, no sooner than 14 days later. The appellant did not appeal this notice until November 12, 2021. This was after October 29 the date MassHealth implemented the termination. The appellant therefore was not eligible to continue receiving MassHealth coverage pending this appeal.

The appellant's representative has requested that the hearing officer somehow either extend MassHealth or Connector coverage to incorporate the date or dates the appellant did not have health coverage. This hearing officer does not have the power to extend the MassHealth coverage beyond the date it ended. The regulations also do not appear to give the Board of Hearings jurisdiction concerning determinations of the Massachusetts Health Connector, which would include a determination of the start date of coverage. (See 130 CMR 610.002). If the appellant requires coverage for October 30, 2021, the appellant should address that concern to her plan through the Connector.

For the above stated reasons, the 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.

## **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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780