

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2203435
Decision Date:	7/26/2022	Hearing Date:	06/17/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Teisha Christie (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

Appeal Decision:	Dismissed	Issue:	CommonHealth – Prescription Drug Coverage
Decision Date:	7/26/2022	Hearing Date:	06/17/2022
MassHealth’s Rep.:	Teisha Christie	Appellant’s Rep.:	<i>Pro se</i>
Hearing Location:	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 April 5, 2022, MassHealth approved the appellant's renewal application for MassHealth CommonHealth coverage. (See 130 CMR 516.007; 519.012; 450.105(E) and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on May 4, 2022 stating that he did not have money for medicine. (See 130 CMR 610.015(B) and Ex. 2).

The fair hearing regulations (130 CMR 610.000 *et seq.*) state that the Board of Hearings will dismiss a request for a hearing when, amongst other reasons, the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003. (130 CMR 610.035(A)(5)). 130 CMR 610.003 is entitled Scope and states the following:

130 CMR 610.000 sets out the processes for fair hearing requests and proceedings started by applicants or members to review certain **actions or inactions by the MassHealth agency...relating to programs administered by the MassHealth agency...** (Emphasis added).

The MassHealth representative testified the appellant is an individual over the age of 65 living in the community. (Ex. 4, p. 2). The appellant is the sole member of the household. The appellant has had MassHealth CommonHealth coverage since May 2015 without a premium. (Ex. 4, p. 2). MassHealth sent the appellant the approval notice on April 5, 2022 and he has not had any gaps in his coverage. (Ex. 1; Ex. 4, p. 2). The appellant stated that his appeal did not concern his eligibility for CommonHealth but, rather, the failure of MassHealth to pay for his medications on at least one

occasion. The MassHealth representative testified that the appellant is eligible for Medicare Part D, which is responsible for paying for his prescriptions. The MassHealth representative stated that according to her records that the appellant has been on his current Medicare Part D drug plan since May 1, 2022. (Ex. 4, pp. 3-4). The MassHealth representative stated that if he was having trouble paying for his medications, he needed to call Medicare and make sure he had a Part D drug plan that covered the specific medications he was prescribed. The appellant stated that the Medicare Part D drug plan he had prior to the one he was on now “just ran out.” The appellant stated that he called Medicare but could not get help from them. The appellant stated that he has been on Medicare since 1995.

The documentation MassHealth submitted indicated that the appellant has been on seven Medicare plans since January 1, 2016. (Ex. 4, p. 3). The majority of these do not clearly indicate whether they were Part D plans or included Part D as part of their coverage.¹ From March 1, 2021 through December 31, 2021, the appellant was on a Medicare plan titled in a way that clearly indicated that it was a Medicare Part D plan². (Id.).

MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age or older in the same manner as it is available to those younger than 65 years old. (130 CMR 519.012(A)(1)). It is true that MassHealth covers pharmacy benefit for persons eligible for CommonHealth coverage. (130 CMR 519.012(A)(2); 505.004(A)(2); 450.105(E)(1) (ff)). MassHealth, however, is the payer of last resort. (130 CMR 517.008). This means that MassHealth will pay for health care and related services only when no other source of payment is available, except as otherwise required by federal law. (130 CMR 517.008). MassHealth requires members use all potential health insurance benefits, including Medicare, and, presumably, Medicare Part D, if available at no greater cost to the member than he or she would pay without access to health insurance. (130 CMR 519.019(A)(2); 505.004(J)). Every member must obtain and maintain health insurance, including Medicare, that is available at no cost to the member. (130 CMR 517.008(A)). MassHealth does not pay for any health care and related services that are available through the member's health insurance, if any; or at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services. (130 CMR 517.008(B)).

The record shows that the appellant has been eligible for Medicare Part D since at least March 2021, if not before that date. Since he was eligible for Medicare Part D, MassHealth is not responsible for the appellant's prescription drug coverage. In order to resolve problems with coverage of his prescriptions, the appellant needs to speak with Medicare.

The issue of the appellant's prescription coverage is not one that is the result of MassHealth's action

¹ These were as follows: “[REDACTED]” from January 1, 2016 through December 31, 2021; “[REDACTED]” from April 1, 2020 through February 28, 2021; “[REDACTED]” from March 1, 2021 through December 31, 2021; “[REDACTED]” from January 1, 2022 through February 28, 2022; “[REDACTED]” from March 1, 2022 through April 30, 2022; and “[REDACTED]” from May 1, 2022 to the present. (Ex. 4, p. 3). “[REDACTED]” is listed twice in a row, but the listings are in every way identical. (Id.).

² “[REDACTED]”.

or inaction. MassHealth is not responsible for administering the appellant's prescription drug benefit. Therefore, the issue of the appellant's prescription drug coverage is one that is outside the scope of the MassHealth Fair Hearing process.

For the above stated reasons, this appeal is DISMISSED.

Order for MassHealth

None.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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