

Office of Medicaid BOARD OF HEARINGS


Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2203752
Decision Date:	8/12/2022	Hearing Date:	07/15/2022
Hearing Officer:	Christopher Jones		

Appearance for Appellant:

Pro se

 - Case Manager

Appearance for MassHealth:

Georges Jorcelin - Charlestown 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	Issue:	HCR – Income Eligibility
Decision Date:	8/12/2022	Hearing Date:	07/15/2022
MassHealth’s Rep.:	Georges Jorcelin	Appellant’s Rep.:	Pro se; [REDACTED] - Case Manager
Hearing Location:	Charlestown MassHealth Enrollment Center	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

On or around March 6, 2022, MassHealth upgraded the appellant’s coverage from Family Assistance benefits to MassHealth Standard with Buy-in. The appellant filed an appeal on or around April 27, 2022 without including the appealed notice. (Exhibit 2.) The Board of Hearings dismissed this appeal as untimely based upon MassHealth’s December 16, 2021 approval of Family Assistance benefits. (See 130 CMR 610.015(B); EOM 21-17 (Nov. 2021); Exhibit 2 and 3.) On May 20, 2022, the appellant submitted a request for reconsideration with a nine-page handwritten letter alleging that MassHealth made a more recent decision that was detrimental to his medical coverage, and this matter was scheduled for hearing.

Agency actions “to suspend, reduce, terminate, or restrict a member’s assistance” are grounds for an appeal.¹ (130 CMR 610.032(A).)

¹ As will be discussed, the agency did not actually “suspend, reduce, terminate, or restrict” the appellant’s assistance, the agency expanded and improved the appellant’s coverage. Therefore, this matter shall be dismissed as moot.

Action Taken by MassHealth

MassHealth upgraded the appellant's coverage from MassHealth Family Assistance to MassHealth Standard.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(E), in determining that the appellant was eligible for MassHealth Standard as a disabled adult under the age of 65.

Summary of Evidence

The appellant is under the age of 65, disabled, and he resides alone. Prior to February 24, 2022, he was covered by MassHealth Family Assistance for HIV-positive Individuals. This benefit exists for people with incomes in between 133% and 200% of the federal poverty level. MassHealth's representative explained that MassHealth's computer system attempted to auto-renew the appellant's eligibility by performing a data match on his income from Social Security. This confirmed that his gross disability benefits were \$1,585 per month, which had previously been verified as his only income. MassHealth's computer system disregarded five percent of the appellant's income in determining his eligibility; his income was equivalent to 132.9% of the federal poverty level. The federal poverty level for an individual in 2022 is \$1,133 per month. MassHealth sent out a notice on March 6, 2022, approving the appellant for MassHealth Standard as of February 24, 2022.

The appellant was very concerned regarding what this change in coverage would do to his medical coverage, as well as what impact this could have on other benefits to which he is entitled. He wanted MassHealth to perform a cost-benefit analysis on his overall public benefits before they took the step of making any changes to his Medicaid coverage. For instance, he was concerned that the Buy-in benefit that comes with MassHealth Standard might make his income appear to be higher for other benefits programs, and adversely affect his housing or HIV services. He was also told by his doctor's office that MassHealth Standard did not cover his medical visits in the same way that Family Assistance did.

After a very lengthy conversation, it was discovered that the appellant's physician was billing the appellant as a MassHealth Standard member for a visit he had on February 18. The appellant did not have MassHealth Standard on February 18, he was still covered by Family Assistance. The appellant was informed to have his physician's office re-bill MassHealth using the code for Family Assistance coverage. It was further explained that there would be no co-pays with MassHealth Standard that were greater than he had with Family Assistance. In fact, MassHealth Standard provides all services provided by MassHealth Family Assistance, plus additional benefits. The appellant was informed that this hearing, and MassHealth in general, could only address his MassHealth benefits and could not otherwise address how those benefits would impact other assistance to which he might be entitled.

By the end of the hearing, the appellant and his representative understood that his benefits had not been downgraded or negatively impacted. However, the appellant asked for a written decision that would show that MassHealth Standard covered more services than Family Assistance.

Findings of Fact

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

1. The appellant is a disabled individual under the age of 65 with monthly Social Security income of \$1,585 per month. (Testimony by MassHealth’s representative.)
2. On or around March 6, 2022, MassHealth upgraded the appellant’s coverage to MassHealth Standard from Family Assistance, effective February 24, 2022. (Testimony by MassHealth’s representative.)
3. The appellant does not dispute any of the facts relied on by MassHealth in making its determination. (Testimony by the appellant.)

Analysis and Conclusions of Law

MassHealth offers several coverage types based on an individual’s income and circumstances. (130 CMR 501.003(B).) MassHealth must approve “the coverage type that provides the most comprehensive benefits for an individual who may be eligible.” (130 CMR 501.003(A).) Two of the coverage types available are MassHealth Standard for Disabled Adults (130 CMR 505.002(E)) and MassHealth Family Assistance for HIV-positive Individuals (130 CMR 505.005(A)(4)). There is no dispute that the appellant is eligible for MassHealth Standard as a disabled adult. The only question is whether this is the coverage type that offers the most comprehensive benefits. It does:

<p>(A) <u>MassHealth Standard</u>.</p> <p>(1) <u>Covered Services</u>. The following services are covered for MassHealth Standard members (<i>see</i> 130 CMR 505.002: <i>MassHealth Standard</i> and 130 CMR 519.002: <i>MassHealth Standard</i>).</p> <p>(a) abortion services;</p> <p>(b) acupuncture services;</p> <p>(c) adult day health services;</p> <p>(d) adult foster care services;</p> <p>(e) ambulance services;</p> <p>(f) ambulatory surgery services;</p> <p>(g) audiologist services;</p> <p>(h) behavioral health services;</p> <p>(i) certified nurse midwife services[;]</p> <p>(j) certified nurse practitioner services;</p> <p>(k) certified registered nurse anesthetist</p>	<p>(G) <u>MassHealth Family Assistance</u></p> <p>...</p> <p>(3) <u>Covered Services for Members Who Are Not Receiving Premium Assistance</u>. For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B), (E), (F), or (G), the following services are covered:</p> <p>(a) abortion services;</p> <p>(b) acupuncture services;</p> <p>(c) ambulance services (emergency only);</p> <p>(d) ambulatory surgery services;</p> <p>(e) audiologist services;</p> <p>(f) behavioral health services;</p> <p>(g) certified nurse midwife services;</p> <p>(h) certified nurse practitioner services;</p> <p>(i) certified registered nurse anesthetist</p>
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<p>services; (l) Chapter 766: home assessments and participation in team meetings; (m) chiropractor services; (n) clinical nurse specialist services; (o) community health center services; (p) day habilitation services; (q) dental services; (r) durable medical equipment and supplies; (s) early intervention services; (t) family planning services; (u) hearing aid services; (v) home health services; (w) hospice services; (x) independent nurse (private duty nursing) services; (y) inpatient hospital services; (z) laboratory services; (aa) nursing facility services; (bb) orthotic services; (cc) outpatient hospital services; (dd) oxygen and respiratory therapy equipment; (ee) personal care services; (ff) pharmacy services; (gg) physician services; (hh) physician assistant services; (ii) podiatrist services; (jj) prosthetic services; (kk) psychiatric clinical nurse specialist services; (ll) rehabilitation services; (mm) renal dialysis services; (nn) speech and hearing services; (oo) therapy services: physical, occupational, and speech/language; (pp) transportation services; (qq) urgent care clinic services; (rr) vision care; and (ss) X-ray/radiology services</p>	<p>services; (j) Chapter 766: home assessments and participation in team meetings; (k) chiropractor services; (l) clinical nurse specialist services; (m) community health center services; (n) dental services; (o) durable medical equipment and supplies; (p) early intervention services; (q) family planning services; (r) hearing aid services; (s) home health services; (t) hospice services; (u) inpatient hospital services; (v) laboratory services; (w) nurse midwife services; (x) nurse practitioner services; (y) orthotic services; (z) outpatient hospital services; (aa) oxygen and respiratory therapy equipment; (bb) pharmacy services; (cc) physician services; (dd) physician assistant services; (ee) podiatrist services; (ff) prosthetic services; (gg) psychiatric clinical nurse specialist services; (hh) rehabilitation services; (ii) renal dialysis services; (jj) speech and hearing services; (kk) therapy services: physical, occupational, and speech/language; (ll) urgent care clinic services; (mm) vision care; and (nn) X-ray/radiology services.</p>
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(130 CMR 450.105(A)(1), (G)(3) (differences emphasized in bold).)

There are two services listed in the Family Assistance benefit that do not appear in the Standard benefits: “(w) nurse midwife services; (x) nurse practitioner services” As “certified nurse

midwife services,” and “certified nurse practitioner services” are otherwise covered by both coverage types, this discrepancy is presumed to be a typographical error. MassHealth elsewhere requires that providers be “certified” in order to be MassHealth eligible providers. (See 130 CMR 450.212(A)(4).) As MassHealth Standard covers more services than Family Assistance, it is a more comprehensive benefit. This appeal is DISMISSED, because MassHealth did not restrict the appellant’s benefits.²

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Jennifer Vitt, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

² Had this appeal not been dismissed, it would have been denied as the appellant identified no factual errors in MassHealth’s action.