

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied in part; Approved in part	Appeal Numbers:	2204192, 2204175
Decision Date:	8/19/2022	Hearing Date:	07/08/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Jenna Lanzillo (Springfield 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:	Denied in part; Approved in part	Issues:	Under 65 – Withdrawal of Application; Timely Appeal; End date of coverage
Decision Date:	8/19/2022	Hearing Date:	07/08/2022
MassHealth's Rep.:	Jenna Lanzillo	Appellant's Rep.:	
Hearing Location:	Springfield 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 separate notices dated May 17, 2022, MassHealth notified the appellants that they did not qualify for MassHealth, Health Safety Net, or the Children's Medical Security Plan because they withdrew their applications. (See 130 CMR 130 CMR 502.009 and Exhibit (Ex.) 1). MassHealth informed the appellants that their coverage would end on May 31, 2022. (Ex. 1). The appellants filed separate appeals in a timely manner on May 27, 2022 both requesting to keep the benefits during the appeal process. (See 130 CMR 610.015(B) and Ex. 2). Termination of assistance is valid grounds for appeal. (See 130 CMR 610.032). Because the appellants are spouses living together and MassHealth denied benefits for precisely the same reason, the separate appeals were consolidated and heard together. (See 130 CMR 610.073).

Action Taken by MassHealth

MassHealth determined that the appellants did not qualify for benefits because they withdrew their application and terminated their MassHealth coverage effective May 31, 2022.

Issue

The appeal issues are whether MassHealth correctly determined that the appellants had withdrawn their application and whether the end date of coverage should have been extended pending this appeal.

Summary of Evidence

The MassHealth representative testified to the following. The appellants have been receiving MassHealth Standard since January 31, 2020. (Ex. 3). The appellants were not eligible for automatic renewal. For that reason, MassHealth sent a renewal application to the appellants on February 1, 2022. The appellants returned the application in a timely manner. Because there was some question concerning their income, MassHealth sent the appellants a request for information on February 11, 2022. The appellants did submit further information so as a result MassHealth returned this information to them because MassHealth needed different information. MassHealth received no further information from the appellants. On May 17, 2022, a MassHealth navigator updated their case in HIX indicating that the appellants voluntarily withdrew their application. For that reason, MassHealth sent the appellants the termination notices at issue in this appeal on May 17, 2022. (Ex. 1). The termination notices stated that the appellant's coverage was ending because they withdrew their application, and that end date for coverage was May 31, 2022. (Ex. 1; Ex. 3).

The appellant husband confirmed that he and his wife did attempt to renew their coverage. They submitted all the requested information through Ecu-Health Care, a MassHealth Navigator. Ecu-Health Care informed them that they were not eligible for MassHealth. The appellant husband stated that they did not formally ask the navigator to withdraw their application but that they were okay with ending their MassHealth coverage. The appellant husband stated that they were concerned about the end date of coverage. The appellant husband stated that their new health coverage did not become effective until July 1. For that reason, they did not have minimum creditable coverage from May 31 through June 30. The appellant husband stated he is leery of violating the individual mandate and being penalized for not being covered for one month. The appellants stated that they did not incur any medical costs during that month that were billable to MassHealth.

Findings of Fact

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

1. The appellants have been receiving MassHealth Standard since January 31, 2020. (Ex. 3).
2. The appellants were not eligible for automatic renewal. (Testimony of the MassHealth representative).
3. For that reason, MassHealth sent the appellants a renewal application on February 1, 2022. (Testimony of the MassHealth representative).
4. The appellants returned the application in a timely manner. (Testimony of the MassHealth representative).

5. Because there was some question concerning their income, MassHealth sent the appellants a request for information on February 11, 2022. (Testimony of the MassHealth representative).
6. The appellants submitted further information in response, but MassHealth returned this information to them because MassHealth needed other information. (Testimony of the MassHealth representative).
7. MassHealth received no further information from the appellants until May 2022. (Testimony of the MassHealth representative).
8. On May 17, 2022, a MassHealth Navigator at Ecu-Healthcare updated the appellants' case and indicated that they were voluntarily withdrawing their application. (Testimony of the MassHealth representative; Testimony the appellants).
9. For that reason, MassHealth sent the appellants the termination notices at issue in this appeal on May 17, 2022. (Ex. 1; Testimony of the MassHealth representative).
10. The termination notices stated that the appellants coverage was ending because they withdrew their application, and that the end date for coverage was May 31, 2022. (Testimony of the MassHealth representative; Ex. 1; Ex. 3).
11. The appellants submitted their requests for a fair hearing on May 27, 2022 and requested to keep the benefits during the appeal process. (Ex. 2).
12. The appellants did not have minimum creditable coverage from May 31 until July 1, 2022 when their subsequent coverage became effective. (Testimony of the appellant husband).
13. The appellants did not incur any medical costs during that month that were billable to MassHealth. (Testimony of the appellants).

Analysis and Conclusions of Law

The applicant or authorized representative may voluntarily withdraw his or her application for MassHealth. (130 CMR 502.009). Once this occurs, MassHealth will provide members with a written notice of the eligibility determination for MassHealth. (130 CMR 502.008(A)). The notice contains an eligibility decision for each member who has requested MassHealth, and either provides information so the applicant or member can determine the reason for any adverse decision or directs the applicant or member to such information. (*Id.*). MassHealth also provides members a notice of any loss of coverage, or any changes in coverage type, premium, or premium assistance payments. (130 CMR 502.008(B)).

In the case where MassHealth is ending benefits, those benefits terminate no sooner than 14 days from the date of termination notice unless the MassHealth member timely files an appeal and requests continued MassHealth benefits pending such appeal or reinstatement of benefits as described in 130 CMR 610.036. (130 CMR 502.006(D)). 130 CMR 610.036 is entitled "Continuation of Benefits Pending Appeal" and states the following in pertinent part:

- (A) When the appealable action involves the...termination, or restriction of assistance, such assistance will be continued until BOH decides the appeal...if BOH receives the initial request for the fair hearing before the implementation date of the appealable action...If the hearing officer's decision is adverse to the appellant, the appealable action will be implemented immediately...
- (B) When a change affecting the member's assistance occurs while the hearing decision is pending, the MassHealth agency will take appropriate action to implement the subsequent change affecting assistance, subject to the advance notice requirements and the right to assistance pending a hearing decision.
- ...
- (D) Assistance continued pending an appeal in accordance with 130 CMR 610.036(A) is subject to recoupment...

The record shows that the appellants were receiving MassHealth benefits prior to MassHealth issuing the notice under appeal. To continue receiving these benefits, the appellants were required to complete a renewal application. The appellants decided not to complete their renewal application. A MassHealth navigator at Ecu-Healthcare reported this in the computer system as a voluntary withdrawal of the application. On May 17, 2022, MassHealth issued notices to each appellant informing them that their benefits were ending on May 31, 2022 because the appellants withdrew their application.

The appellant did not contest the underlying reason for MassHealth's action here. The appellants confirmed that they withdrew their application because they were informed that they were not eligible for MassHealth. The appellants did, however, contest the end date of coverage. The regulations do support their contention that the end date of coverage should have been extended. The appellants submitted an appeal of the termination prior to the scheduled end date of their benefits. They requested that their benefits continue during the appeal. Under these circumstances, the appellant should have continued to receive aid while this appeal was pending.

The record shows that the aid should only continue through June 30, 2022. The appellants testified that their new health coverage became effective on July 1, 2022. This is a change affecting the appellant's assistance that occurred while this hearing decision was pending. Had MassHealth been aware of the change, it would have been within its authority to take further action to implement the change (by issuing another notice with appeal rights). As such, MassHealth was not aware of that change and took no action. That said, because the appellants did become covered by other health insurance as of July 1, 2022, there is no reason that aid pending should have been continued beyond June 30, 2022.

For the above stated reasons, regarding the underlying reason for the termination notice, the withdrawn application, the appeal is DENIED IN PART.

Regarding the end date of coverage, the appeal is APPROVED IN PART.¹

¹ Since the appellants did not contest the underlying reason for the MassHealth action, it can be stated that they would have had no right to receive assistance after May 31, 2022. If aid pending had been in effect from

Order for MassHealth

Reissue the May 17, 2022 termination notice with a revised coverage end date of June 30, 2022.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

the beginning, and the appellants had incurred medical costs billed to MassHealth, that assistance would have been subject to recoupment.