

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2205563
Decision Date:	10/14/2022	Hearing Date:	08/26/2022
Hearing Officer:	Scott Bernard	Record Open to:	09/21/2022

Appearance for Appellant:



Appearance for MassHealth:

Christopher Champagne (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:	Dismissed	Issue:	Home-and-Community-based Services Waiver--frail Elder (Frail Elder Waiver)
Decision Date:	10/14/2022	Hearing Date:	08/26/2022
MassHealth's Rep.:	Christopher Champagne	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 a notice dated July 19, 2022, MassHealth downgraded the appellant's coverage to Health Safety Net (HSN because her countable income was in excess of MassHealth income limits. (See 130 CMR 519.002 and Exhibit (Ex.) 1, pp. 3-6). The appellant, through her attorney in fact and attorney at law, filed this appeal in a timely manner on July 27, 2022. (See 130 CMR 610.015(B) and Ex. 1, pp. 2, 7-13). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

The record was left open until September 26, 2022 at the appellant's attorney's request to confirm that MassHealth had sent specific notice. On September 21, 2022, the appellant's attorney's office informed the hearing officer that they had received that notice at which time the record closed.

Action Taken by MassHealth

MassHealth downgraded the appellant's coverage to HSN because she was over the income limit for MassHealth.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002, in downgrading the appellant's coverage

Summary of Evidence

The MassHealth representative testified that MassHealth incorrectly downgraded the appellant's coverage to HSN. Under Federal regulations, a person receiving income in the amount the appellant is receiving cannot be downgraded to a lower coverage. The protection has been in place since the appeal was submitted but MassHealth had already corrected the error. The MassHealth representative stated that a new notice approving the appellant for her prior coverage that she received through the Frail Elder Waiver will be sent and there will be no gap in the coverage. The MassHealth representative stated, however, that a notice has not yet been sent.

The appellant's attorney stated that the MassHealth representative had already apprised her of the situation. The appellant's attorney stated that she did not want to withdraw the appeal before receiving the new notice. The appellant's attorney stated that she would like the record to stay open until she and her client receive a copy of the notice. For that reason, the record was left open until September 26, 2022 for the appellant's attorney to email the hearing officer and inform him whether the appellant received an eligibility notice from MassHealth confirming her continued receipt of benefits with no gap in coverage. (Ex. 3). On September 15, 2022, the MassHealth representative informed the hearing officer that the notice had been sent. (Ex. 4). On September 21, 2022, the appellant's attorney's office informed the hearing officer that they did receive the notice. (Ex. 6).

Findings of Fact

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

1. MassHealth incorrectly downgraded the appellant's coverage to HSN. (Testimony of The MassHealth representative).
2. Under Federal regulations, a person receiving income in the amount the appellant is receiving cannot be downgraded to a lower coverage. (Testimony of The MassHealth representative).
3. The protection has been in place since the appeal was submitted but MassHealth had already corrected the error. (Testimony of The MassHealth representative).
4. A new notice approving the appellant for her prior coverage that she received through the Frail Elder Waiver will be sent and there will be no gap in the appellant's coverage. (Testimony of The MassHealth representative).
5. As of the date of the hearing the notice has not yet been sent. (Testimony of The MassHealth representative).
6. The appellant's attorney stated that she did not want to withdraw the appeal before receiving

the new notice. (Testimony of the appellant's attorney).

7. The record was left open until September 26, 2022 by which time the appellant's attorney would inform the hearing officer whether she received the described notice. (Ex. 3).
8. On September 15, 2022, MassHealth issued the described notice. (Ex. 4).
9. On September 21, 2022, the appellant's attorney's office confirmed receipt of the described notice. (Ex. 5).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 651.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (130 CMR 651.051(B) *citing* 130 CMR 651.032). At the hearing, MassHealth admitted that it mistakenly downgraded the appellant's coverage. MassHealth also testified that it had corrected that error in the system but that a new notice has not been sent. The appellant's attorney requested approximately one month to allow for the sending and receiving of the promised notice. On September 21, 2022, the appellant's attorney's office confirmed receipt of the notice.

For the above stated reasons, the appeal is DISMISSED.

Order for MassHealth

None.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]