

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Dismissed

Appeal Number: 2208874

Decision Date: 7/25/2023

Hearing Dates: 3/20/2023
4/28/2023
6/01/2023

Hearing Officer: Alexis Demirjian

Appearance for Appellant:

Pro se

Appearance for MassHealth:

Harry Giang, Charlestown MEC
M Levine, Charlestown MEC
Marie Ngonga, Charlestown MEC
Cassandra Horne, Commonwealth Care
Alliance



*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:	Termination Notice
Decision Date:	7/25/2023	Hearing Dates:	3/20/2023 ^{1 2} 4/28/2023 6/01/2023
MassHealth's Rep.:	Harry Giang M Levine Marie Ngonga Cassandra Horne, CCA	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center - Room 1	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

¹ Harry Giang appeared on behalf of MassHealth on the first day of hearing, March 20, 2023. M Levine appeared on behalf of MassHealth on the second day of hearing, April 28, 2023. Marie Ngonga on behalf of MassHealth on the final day of hearing, June 1, 2023. Cassandra Horne appeared on behalf of CCA on the final day of Hearing. All MassHealth representatives consistently testified that the Appellant had MassHealth Standard Coverage, the coverage had never been terminated and the Appellant never experienced a gap in coverage.

² The Appellant wished to tape record the hearings for the purpose of notetaking, this request was granted. Further, the Appellant was afforded three separate hearing dates so that he could review the recordings and respond to MassHealth.

Through a notice dated November 18, 2022, MassHealth approved the Appellant's application for MassHealth Standard benefits. (*See Exhibit 3*). The Appellant also received a notice from Commonwealth Care Alliance One Care, dated November 23, 2022 that stated that the Appellant's benefits through the MassHealth were set to terminate after December 31, 2023. (*See Exhibit 4*). The appellant filed this appeal in a timely manner on November 28, 2022. (*see 130 CMR 610.015(B) and Exhibit 2*).³ Any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal before the Board of Hearings. (*see 130 CMR 610.032 (3)*).

Action Taken by MassHealth

MassHealth approved the Appellant for MassHealth Standard.

Issue

Whether MassHealth or CCA took any action that resulted in the Appellant losing his benefits.

Summary of Evidence

The Appellant received two notices in this matter. The first is a notice, dated November 18, 2022, notified the Appellant that he qualified for MassHealth Standard and had coverage effective October 23, 2018. (*Testimony Giang, Levine, Ngonga; See Exhibit 3*). On November 23, 2023, Commonwealth Care Alliance ("CCA") sent a notice to the Appellant stating this his MassHealth coverage through CCA was to end on January 1, 2023. (*CCA Testimony; Exhibit 4*).

MassHealth testified that in November of 2022, a renewal for the Appellant was processed. When processing the November 2022 renewal, MassHealth determined that the Appellant's MassHealth household composition had changed, and this household composition change would impact the Appellant's eligibility. (*See Testimony Ngonga*). MassHealth went on to testify that a protective hold had been placed on the Appellant's coverage due to the Federal Public

³ The hearing in this matter was originally scheduled for December 30, 2022 and it was postponed for logistical reasons. The matter was then scheduled for February 9, 2023. The Appellant requested that the hearing scheduled for February 9, 2023 be postponed due to his appearance in another judicial forum. That request was granted, and the matter was rescheduled for March 10, 2023. The Appellant again requested that the March 10, 2023 hearing be rescheduled due to his appearance in another judicial forum. This request was granted, and the hearing was rescheduled for March 20, 2023. The first day of hearing was held on March 20, 2023, the Appellant was allowed to reserve his argument for a second day of hearing scheduled to occur on April 28, 2023. A second day of hearing was held on April 28, 2023, however a representative from CCA was not available to testify at this hearing date. A third and final day of hearing was scheduled for June 1, 2023 to allow for testimony from CCA.

Health Emergency protections, as a result the Appellant's coverage remained uninterrupted, and he continued to be covered under MassHealth Standard. (*Id.*). MassHealth testified that the Appellant has continuously been covered under MassHealth Standard since 2010 with no gaps in coverage. (*See MH Testimony Giang, Levine, Ngonga*). MassHealth further testified that the Appellant should remain covered under MassHealth Standard until he completes a renewal in November 2023, at that time MassHealth will redetermine the Appellant's MassHealth eligibility consistent with the guidance for ending the Federal Public Health Emergency. (*See Testimony Ngonga*).

CCA testified that around the time of the Appellant's November 2022 renewal, CCA received a notification from MassHealth indicating that the Appellant's coverage was ending. (*See CCA Testimony*). As a result of this notification, their system generated the November 22, 2022 notice warning the Appellant that his coverage would end. (*Id.*).

CCA testified soon thereafter, MassHealth notified CCA that he should be re-enrolled in CCA coverage and that his MassHealth coverage was not ending. (*Id.*). CCA testified that despite the November 22, 2022, notice, the Appellant did not receive any lapse in coverage through CCA Senior Services. (*Id.*).

The Appellant offered testimony that he disagrees with MassHealth's and CCA's testimony that he has had full coverage. The Appellant's testimony focused on a list of services he believes that should have been covered by MassHealth, the Executive Office of Health and Human Services, and CCA. Several of the issues raised by the Appellant have been appealed to the Board of Hearings and have been addressed with separate appeals. To the extent that the Appellant has been unhappy with prior Board of Hearing decisions, he has been able to avail himself to judicial review consistent with his right to do so under M.G.L. c.30A.

Findings of Fact

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

1. In November of 2022, MassHealth processed a renewal for the Appellant. (*See Testimony MH June 1, 2023*).
2. While processing the renewal MassHealth determined that the Appellant's household composition had changed and the changed would affect the Appellant's eligibility. (*Id.*).
3. Due to the Public Health Emergency protections the Appellant did not experience a change in coverage. (*Id.*).

4. The CCA notice was sent in error and the Appellant did not experience any gap in coverage. *(See Testimony CCA).*

5. The Appellant has had continuous MassHealth Standard coverage since 2010. *(See Testimony Giang, Levine, Ngonga).*

Analysis and Conclusions of Law

As part of the response to the COVID-19 Federal Public Health Emergency (FPHE), MassHealth, with federal approval, authorized certain flexibilities to expedite access to MassHealth coverage for eligible individuals. MassHealth issued a series of memorandums to address the flexibilities in Eligibility Operations Memo (“EOM”) 20-09, EOM 21-09, EOM 21-14, EOM 21-17, and EOM 22-10. In November 2022, when the Appellant’s renewal application was processed, EOM 22-10 was in effect and offered guidance on changes to MassHealth members benefits.

MassHealth EOM 22-10 memorandum states:

MassHealth will continue to maintain coverage for most individuals who had health coverage as of March 18, 2020, and for all individuals newly approved for health coverage during the FPHE, through the end of the month in which the FPHE ends. **These individuals will not lose coverage, except for limited circumstances.**

For example, coverage will end if an individual

- requests termination of eligibility;
- is no longer a resident of Massachusetts; or
- is deceased.

MassHealth is not required to maintain coverage during the FPHE for individuals with time limited HSN, HSN Dental only, or CMSP only, and CHIP children who turn 19. These members will have benefits reduced or closed based on regular program determination rules.

Members who were protected from coverage loss or downgrade during the FPHE **will not be subject to adverse action on their case after the FPHE ends until they go through a full MassHealth renewal after the FPHE ends.**

(Bold emphasis added.)

Based on the testimony and evidence presented in this case, MassHealth correctly placed a protective hold on the Appellant’s benefits, and he did not experience a coverage loss or downgrade in benefits during the Federal Public Health Emergency. While the notice sent from CCA was certainly upsetting and suggested that the Appellant was about to lose his MassHealth

coverage, the facts establish that the Appellant never experienced a loss in coverage. Thus, MassHealth's actions resolved the issue of whether the Appellant's coverage would terminate effective December 31, 2022, thus rendering the CCA November 22, 2022 notice moot.

For those reasons, this appeal is DISMISSED. *See 130 CMR 610.035 (8).*

On July 14, 2023, MassHealth issued additional guidance for individuals, such as the Appellant, who had their benefits protected due to the Federal Public Health Emergency before April 1, 2023.

Specifically, MassHealth EOM 23-18 provides:

Members who had benefits protected before April 1, 2023

- Members who would have lost or had coverage downgraded during the PHE had their coverage protected so that they were not closed or downgraded.
- For these members, we cannot close or downgrade coverage until they complete an annual renewal or review.

MassHealth testified that the Appellant's renewal will occur in November 2023. At that time MassHealth will determine the Appellant's eligibility, he should not experience a downgrade or termination in his coverage prior to MassHealth's redetermination consistent with EOM 23-18.

To the extent that the Appellant raised arguments related to specific prior authorization denials occurring in the past. The Appellant was reminded that he may always file appeals related to individual determinations made by MassHealth or by CCA, but the issues raised in this hearing were outside the scope of this Hearing Officer in this appeal. Accordingly, the Hearing Officer does not make any determinations related to these grievances.

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.

Alexis Demirjian
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

MassHealth Representative: Commonwealth Care Alliance, SCO, Attn: Cassandfa Horne, 30 Winter Street, Boston, MA 02108