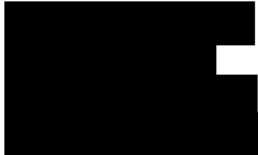


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Approved in part;
Denied in part;
Dismissed in part

Appeal Number: 2300640

Decision Date: 3/9/2023

Hearing Date: 02/28/2023

Hearing Officer: Alexandra Shube

Appearance for Appellant:

Via telephone:



Appearance for MassHealth:

Via telephone:

Jamie Zalucki, Springfield MEC
Gretchen Whitworth, Premium Billing
Karishma Raja, Premium Billing



*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:	Approved in part; Denied in part; Dismissed in part	Issue:	Start Date
Decision Date:	3/9/2023	Hearing Date:	02/28/2023
MassHealth's Rep.:	Jamie Zalucki Gretchen Whitworth Karishma Raja	Appellant's Rep.:	Mother/Guardian
Hearing Location:	Springfield MassHealth Enrollment Center Remote	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

Through a notice dated January 18, 2023, MassHealth approved the appellant for MassHealth Standard benefits with a start date of January 7, 2023 (Exhibit 1). The appellant filed this appeal in a timely manner on January 24, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Determinations regarding scope and amount of assistance are valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for MassHealth Standard benefits with a start date of January 7, 2023.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is eligible for MassHealth Standard benefits beginning January 7, 2023.

Summary of Evidence

MassHealth was represented at hearing via telephone by an eligibility worker from the Springfield MassHealth Enrollment Center and two representatives from the Premium Billing department. MassHealth testified as follows: on January 18, 2023, a phone application was completed on behalf of the appellant who is over the age of 19, but under the age of 65. Based on his age and income, he was determined eligible for MassHealth Standard benefits with a start date of January 7, 2023. MassHealth issued an approval notice on January 18, 2023 informing the appellant of its determination.

The appellant's mother appeared at hearing via telephone on his behalf. She appealed the January 18, 2023 approval notice and had issue with the start date, as well as premiums she paid on his behalf when he was eligible for MassHealth CommonHealth several years ago. She stated that her son was diagnosed with autism when he was 15 years old and, because he is disabled, he should have automatically qualified for MassHealth as soon as he turned 19 and became eligible for Social Security benefits. She stated that he had MassHealth CommonHealth benefits as his secondary insurance. She felt that he should not have been assessed a premium because he was disabled. Her income should not have counted against her son to result in a premium. Additionally, when he had MassHealth CommonHealth, they never used it or submitted any claims even though they were still paying for it. She was upset that they were ever charged premiums for a disabled child based on the parent's income, especially when they never used those benefits. She testified that she called to cancel his CommonHealth benefits because he had primary insurance through her husband, but it was never canceled and the Commonwealth of Massachusetts has been taking her taxes for years to pay for those premiums.

MassHealth explained that when the appellant was under the age of 19, he was in his parents' household and claimed as a tax dependent; therefore, the family's income was used when determining his financial eligibility for MassHealth benefits. Based on the household's size and income, when the appellant was determined eligible for MassHealth CommonHealth beginning May 24, 2016, a premium was assessed. MassHealth provided copies of CommonHealth approval notices dated June 3, 2016, March 9, 2018, and May 11, 2018. The notices informed the appellant of a monthly premium and the need to cancel if they did not wish to pay those premiums. None of the notices were appealed and there was no record the appellant ever called to cancel. There were records of phone conversations in 2018 between the appellant's mother and Premium Billing disputing the amounts of the premium bills and the family's income. The appellant's MassHealth CommonHealth benefits ended October 12, 2018 and there was no new application filed on his behalf until January 18, 2023. MassHealth requires an application. Without some action on the

appellant's behalf, his coverage would not have been activated or reinstated at any time in between. MassHealth noted that the final tax intercept occurred in February 2020.

MassHealth also explained that typically, coverage goes retroactive ten days prior to the date of the application. Based on COVID-19 flexibilities still in place, however, MassHealth could backdate the appellant's MassHealth Standard benefits three months, to October 1, 2022.

Findings of Fact

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

1. On January 18, 2023, a phone application was completed on behalf of the appellant who is over the age of 19, but under the age of 65 (Testimony).
2. On January 18, 2023, MassHealth issued a notice approving the appellant for MassHealth Standard benefits with a start date of January 7, 2023 (Testimony and Exhibit 1).
3. The appellant timely appealed the approval notice on January 24, 2023 (Testimony and Exhibit 2).
4. The appellant previously had MassHealth CommonHealth benefits from May 24, 2016 through October 12, 2018 (Testimony and Exhibit 4).
5. When the appellant was approved for MassHealth CommonHealth benefits, he was under the age of 19 and a tax dependent of his parents (Testimony and Exhibit 4).
6. Based on the family's household size and income, a monthly premium was assessed and the appellant was notified of those premiums in MassHealth CommonHealth approval notices dated June 3, 2016, March 9, 2018, and May 11, 2018 (Testimony and Exhibit 4).
7. The appellant did not appeal any of those notices and there is no record of the appellant canceling his MassHealth CommonHealth benefits (Testimony and Exhibit 4).
8. The appellant's mother's taxes were intercepted to cover unpaid premiums, with the final tax intercept being in February 2020 (Testimony).
9. At hearing, based on COVID-19 flexibilities, MassHealth was able to backdate the appellant's MassHealth Standard coverage to October 1, 2022 (Testimony).

Analysis and Conclusions of Law

Pursuant to 505.004(I), disabled adults, disabled working adults, disabled young adults, and disabled children who qualify for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2); however, the Board of Hearings must receive the request for a fair hearing within the following time limits:

- (1) 30 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the third day after mailing;
- (2) unless waived by the Director or his or her designee, 120 days from
 - (a) the date of application when the MassHealth agency fails to act on an application;
 - (b) the date of request for service when the MassHealth agency fails to act on such request;
 - (c) the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action; or
 - (d) the date of the alleged coercive or otherwise improper conduct, but up to one year from the date of the conduct if the appellant files an affidavit with the Director...

130 CMR 610.015(B).

Additionally, MassHealth has issued COVID-19 relief rules for the duration of the Federal Public Health Emergency (FPHE) and through the month in which it ends. The MassHealth Response to Coronavirus Disease (COVID-19), Eligibility Operations Memo (EOM) 22-10, updated in August 2022¹, states the following related to fair hearings:

Individuals will have up to **120 days**, instead of the standard 30 days, to request a fair hearing for concerns related to member eligibility. When the FPHE ends, the standard time to request a fair hearing will be changed from 30 days to 60 days.

The appeal is dismissed as to the issue raised by the appellant related to the premiums for his MassHealth CommonHealth benefits and resulting tax intercepts. Not only is it outside the scope of the notice under appeal approving the appellant for MassHealth Standard benefits, but it also far exceeds the allowable time limits for appealing a MassHealth determination, even with the COVID-

¹ <https://www.mass.gov/doc/eom-22-10-updated-masshealth-response-to-coronavirus-disease-covid-19-0/download> (last viewed March 9, 2023).

19 flexibilities. The CommonHealth determinations were made on June 3, 2016, March 9, 2018, and May 11, 2018 and the most recent tax intercept occurred in February 2020, all far outside the 120-day time frame to request a fair hearing.

To be considered for MassHealth benefits, an individual or his authorized representative must file an application online, complete a paper application, complete a telephone application, or apply in person. 130 CMR 502.001(A).

Ordinarily, pursuant to 130 CMR 502.006(2)(a), MassHealth Standard coverage begins ten days prior to the date of application; however, EOM 22-10 states the following:

Retroactive Eligibility for Individuals Younger Than Age 65: Upon request, any individuals younger than age 65 who applied for MassHealth on or after March 1, 2020, will receive retroactive coverage if they would have been eligible. Coverage will begin as early as the first day of the third calendar month before the month of application, but no earlier than March 1, 2020.

As such, the appellant should be approved for MassHealth Standard benefits retroactive to October 1, 2022, as testified to at hearing by the MassHealth representative. Since the application was received via telephone on January 18, 2023, October 1, 2022 is the earliest possible start date based on the regulations and COVID-19 flexibilities.

For these reasons, the appeal is approved in part, denied in part, and dismissed in part.

Order for MassHealth

If not already done so, approve the appellant for MassHealth Standard benefits with a start date of October 1, 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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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