

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2300851
Decision Date:	3/16/2023	Hearing Date:	03/06/2023
Hearing Officer:	Alexis Demirjian	Record Open to:	03/20/2023

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Chanthy Kong, Tewksbury 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:	Hospital Presumptive Eligibility
Decision Date:	3/16/2023	Hearing Date:	03/06/2023
MassHealth's Rep.:	Chanthy Kong	Appellant's Rep.:	Pro se
Hearing Location:	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

On December 9, 2023, the Appellant applied for MassHealth benefits through a qualified hospital for immediate, time-limited Medicaid coverage using self-attested information. (See 42 CFR 435.1110; 130 CMR 502.003(H): Hospital-Determined Presumptive Eligibility.) Through a notice dated December 16, 2023, MassHealth sent a notice stating that they determined the Appellant does not qualify for MassHealth or the Health Safety Net because her income was too high. (see 130 CMR506.007 (B) and 130 502.003 and Exhibit 3). On February 2, 2023, the Appellant sent a letter to the Massachusetts Health Connector Appeals Unit requesting an appeal and filed a Fair Hearing Request with the Board of Hearings. (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal before the Board of Hearings. (see 130 CMR 610.032).

Action Taken by MassHealth

The Appellant was not found to be eligible for the Health Safety Net through the Hospital Presumptive Eligibility process.

Issue

Whether the Appellant qualified for the Health Safety Net through a Hospital Presumptive Eligibility ("HPE") determination?

Summary of Evidence

This case arises from an accident involving the Appellant that resulted in a hospital visit on [REDACTED] 2022. (Testimony and Exhibit 4). The Appellant did not have any insurance coverage at the time of the accident. (Id.). The Appellant received treatment for a broken wrist and was discharged from the hospital. (Id.). On [REDACTED] 2022, the Appellant presented at Somerville Hospital and filled out paperwork to determine whether the Appellant was eligible for MassHealth benefits. (Id.).

The Appellant testified that her only application for benefits was completed by a staff member at Somerville Hospital and she did not apply through a MassHealth MEC or via a web-based application. (Testimony; Exhibit 4; Exhibit 5). Thus, the Appellant did not apply for MassHealth for benefits through MassHealth. The Appellant does not contend that her income qualified her for MassHealth Benefits. (Testimony). The Appellant's stated reason for appeal is the "denial of temporary MassHealth Safety Net to myself on [REDACTED] 2022." (Testimony; Exhibit 4).

The Appellant testified that, when she met with the staff at the hospital, she reported her income that she had received bi-weekly since September 1, 2022. (Testimony). At hearing, the Appellant asserts that she self-reported the wrong income to the worker at Somerville Hospital. (Testimony and Exhibit 5). She further testified that during that meeting with the staff member at Somerville Hospital she was told she was tentatively approved for Health Safety Net. (Testimony).

On [REDACTED] 2022, the Appellant was scheduled for surgery. (Id.). On that same date, the Appellant called to confirm that she had coverage and was informed that she did not. (Id.). The Appellant reported that she had reported her bi-weekly income of \$2,400, which she had been receiving since September 1st. (Id.). The Appellant noted that since the accident she has reduced her workload and is now receiving 50% of her bi-weekly income. (Id.).

The Appellant reported that she spoke with staff in the orthopedics office and "they encouraged me to come through the emergency room because they thought that would make me eligible for the safety net." (Id.).

The Appellant underwent surgery on [REDACTED] 2022. (Id.).

On December 21, 2022, the Appellant enrolled in insurance through the Massachusetts Health Connector and established coverage effective January 1, 2023. (Id.).

MassHealth testified that there were unable to find any application for the Appellant. (Testimony).

During the record open period the Appellant explained that she chose not to buy insurance prior to her accident and was under the assumption that if she had an accident that she would be covered under the Health Safety Net. (Exhibit 5). Additionally, the Appellant provided documentation that included approval notices for Health Connector issued on December 9, 2022. (Id.). There is no temporary approval for the Safety Net included in the documentation submitted. (Id.).

In response to the Appellant's submissions, MassHealth reviewed the file and submissions and indicated that they did not have an application for the Appellant. (Exhibit 6). MassHealth further noted that the Health Safety Net is a separately administered program, and she would need to seek redress according to the regulations governing that program. (Id.).

Findings of Fact

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

1. On [REDACTED] 2022, the Appellant broke her wrist and was treated at the hospital. (Testimony; Exhibit 4).
2. On [REDACTED] 2022, a staff member at Somerville Hospital facilitated the Appellant's application for benefits through a process referred to as Hospital Presumptive Eligibility. (Testimony; Exhibit 4)
3. On [REDACTED] 2022, the Appellant was aware that she did not have insurance coverage. (Testimony; Exhibit 4; Exhibit 5)
4. On [REDACTED] 2022, the Appellant underwent corrective surgery on her wrist. (Testimony; Exhibit 4; Exhibit 5)
5. The Appellant's issue on appeal was "the decision to deny temporary Mass Health Safety Net to myself on [REDACTED] 2022." (Testimony; Exhibit 4; Exhibit 5)
6. The Appellant did not have coverage under the Health Safety Net.

Analysis and Conclusions of Law

The Affordable Care Act (ACA) allows qualified hospitals to make presumptive eligibility determinations for immediate, time-limited Medicaid coverage using self-attested information from certain individuals who appear to be eligible for Medicaid coverage but are unable to complete a full Medicaid application at that time. (See 42 CFR 435.1110; 130 CMR 502.003(H): Hospital-Determined Presumptive Eligibility.)

130 CMR 502.003(H)

(H) Hospital-determined Presumptive Eligibility.

(1) Presumptive Eligibility Determinations. A qualified hospital may make presumptive eligibility determinations for its patients in accordance with 130 CMR 450.110: Hospital Determined Presumptive Eligibility. Presumptive eligibility will be determined based on attested information. The MassHealth agency will use estimated gross household income rather than MassHealth MAGI to assess whether the financial requirements described below have been met. The qualified hospital may determine presumptive eligibility for the following:

(a) MassHealth Standard if the individual appears to meet categorical and financial requirements in 130 CMR 505.002:

MassHealth Standard and the individual is

1. a child younger than one year old;
2. a child one through 18 years of age;
3. a young adult 19 through 20 years of age; 130 CMR: DIVISION OF MEDICAL ASSISTANCE 502.003: continued
4. a pregnant woman;
5. a parent or caretaker relative;
6. an individual with breast or cervical cancer;
7. an individual who is HIV positive; or
8. an independent foster care adolescent up to age 26;

(b) MassHealth CarePlus if the individual appears to meet categorical and financial requirements in 130 CMR 505.008:

MassHealth CarePlus and the individual is an adult 21 through 64 years of age;

or

(c) MassHealth Family Assistance if the individual appears to meet categorical and financial requirements in 130 CMR 505.005(C):

Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level or

130 CMR 505.005(E): Eligibility Requirement for HIV-positive Individuals Who Are Citizens or Qualified Noncitizens with Modified Adjusted Gross Income of the MassHealth

MAGI Household Greater than 133 and Less than or Equal to 200% of the Federal Poverty Level and is

1. a child or a young adult who is a nonqualified PRUCOL as described in 130 CMR 504.003(C): Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs); or
2. an individual who is HIV positive.

(2) Coverage Start Date. Benefits provided through the hospital presumptive eligibility process will begin on the date that the hospital determines presumptive eligibility and will continue until

(a) the end of the month following the month in which the hospital-determined presumptive eligibility, if the individual has not submitted a complete application as described in 130 CMR 502.001 by that date; or

(b) an eligibility determination is made based upon the individual's submission of a complete application as described in 130 CMR 502.001, if the complete application was submitted before the end of the month following the month of the hospital-presumptive eligibility determination.

(3) Premium Assessment. Individuals who are determined eligible through hospital determined presumptive eligibility will not be assessed a premium. Premium assistance is not awarded during the presumptive eligibility period.

(4) Continued Eligibility. The individual must submit a complete application as described in 130 CMR 502.001 to determine continued eligibility for MassHealth.

Eligibility Operations Memo 20 -10 (“EOM 20-10), explains the process by which hospitals may make an HPE determination. The process is described as follows:

Once a qualified hospital has contracted with MassHealth to make HPE determinations, its HPE-trained Certified Application Counselors (CACs) may determine whether an individual is eligible for HPE by completing the *MassHealth Application for Hospital-Determined Presumptive Eligibility* (HPE application) using self-attested information provided by the applicant. The HPE-trained CAC must complete a separate HPE application for each individual seeking HPE coverage.

Prior to completing and submitting an HPE application, the CAC must:

- ensure that the applicant is unable to complete a full *Massachusetts Application for Health and Dental Coverage and Help Paying Costs* (ACA-3) or *Application for Health Coverage for Seniors and People Needing Long-Term-Care Services* (SACA-2) at that time;
- determine the applicant’s eligibility for HPE;
- explain the HPE application process to the applicant and describe the applicant’s rights and responsibilities; and

- assign the applicant the appropriate MassHealth coverage type.

Once the HPE-trained CAC approves the application, the applicant receives immediate, time-limited MassHealth coverage corresponding to the coverage type assigned by the CAC.

The testimony of the Appellant is consistent with the process described in both the regulation and EOM 20-10, thus we must conclude that the Appellant's pursuit of benefits was facilitated through the HPE process and not through a direct application facilitated directly by MassHealth.

EOM 20-10 goes on to the processing of the HPE coverage during the pendency of the COVID-19 national emergency by providing the following:

Effective immediately and continuing for the duration of the COVID-19 outbreak national emergency, the following people are eligible to apply for MassHealth benefits via HPE:

- (1) all individuals meeting the financial eligibility criteria for MassHealth Standard set forth in 130 CMR 519.005(A). Pursuant to 130 CMR 519.005(A), non-institutionalized individuals age 65 years or older may qualify for MassHealth Standard if (a) the countable income amount, as defined in 130 CMR 520.009: Countable-income Amount, of the individual or couple is less than or equal to 100% of the federal poverty level (FPL); and (b) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.
- (2) all individuals described in 130 CMR 502.003(H)(1)(a) – (c).

All individuals listed above may apply for MassHealth benefits via HPE even if that individual has received MassHealth benefits via HPE or were enrolled in MassHealth Standard, MassHealth CommonHealth, MassHealth CarePlus, or MassHealth Family Assistance within the previous 12 months.

Eligibility for HPE is based on the applicant's **self-attested responses to a limited set of questions set forth in the HPE application**. These include questions about household income, household size, pregnancy status, parent or caretaker relative status, immigration status, Massachusetts residency status, and assets, if applicable. **When assessing whether an applicant qualifies for HPE, neither the qualified hospital nor the Charlestown MEC will perform any matching or verifications**. To retain coverage after the expiration of the HPE period, applicants must submit a full application before the HPE coverage end date. The full ACA-3 and SACA-2 applications are subject to customary matching, verification, and MassHealth requirements.

(Bolded emphasis added)

Applicants approved for coverage through HPE will receive an approval notice from the qualified hospital when the qualified hospital makes the HPE eligibility determination. The approval notice will include the HPE approval as well as the qualified hospital's name and contact information. In many cases, the approval notice provided by the qualified hospital will not include a member ID due to the lag time in getting the approval information into MassHealth systems.

MassHealth will also mail applicants approved through HPE a confirmation approval letter on MassHealth letterhead. This letter will contain the member ID.

The Appellant's request for hearing states "I am appealing the decision to deny temporary Mass Health Safety Net to myself on December 14, 2022."

Here the Appellant claims that she gave the wrong information regarding her income, thus her purported temporary HPE coverage was subsequently denied by MassHealth on December 16, 2022. Assuming *arguendo*, the Appellant's recollection is correct, it is curious that a CAC staff member would have approved the Appellant under HPE given that her reported income exceeded the eligibility thresholds. Additionally, had the Appellant received temporary approval, she would have received a letter from the hospital staff and no letter of approval regarding the Health Safety Net was introduced into evidence in this matter.

EOM 20-10, is instructive regarding errors made during the HPE process:

If a qualified hospital erroneously approves HPE eligibility for an individual who is ineligible to apply for MassHealth benefits via HPE, MassHealth's HPE team will notify the hospital. The hospital will be instructed to correct its mistake by contacting the applicant and explaining to the individual that they do not meet MassHealth HPE eligibility criteria.

Such an individual will remain in his or her existing MassHealth benefit, if applicable. No new coverage under HPE will be entered into MA21 based on the hospital's mistake. Services rendered to applicants erroneously approved by an HPE-trained CAC will not be paid for using HPE.

HPE determinations cannot be appealed.

(Bolded emphasis added)

At issue here is an HPE determination, the Appellant does not have the right to appeal an HPE determination. For those reasons, this matter is **DISMISSED**.

Regarding the Appellant's grievance concerning the Health Safety Net, according to 101 CMR 613.004 (5), an individual may request a review of the determination of the Low-Income Patient

status or Medical Hardship eligibility if exceptional circumstances outside of the individual's control had a material impact on the Medical Hardship eligibility determination. **The Health Safety Net Office** will conduct a review using the following process.¹

- (a) In order to request a review, the individual must send a written request to the Office with supporting documentation.
- (b) To request a review of a determination of Low Income Patient status, the individual must send the review request within 30 days from the date of the official notification of the determination.
- (c) To request a review of a Medical Hardship eligibility determination, the individual must send the review request, including a description of the circumstances outside of the individual's control that had a material impact on the eligibility determination, **within six months from the date of the official notification of the determination**. For all grievances, the Office may request additional information as necessary from the grievant, other state agencies, and/or the Provider(s). Additional information requested from the grievant by the Office must be submitted within 30 days.

(Bolded emphasis added)

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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

¹ The Health Safety Net Office is within the Office of Medicaid and established under M.G.L. c. 118E § 65. The Health Safety Net Office administers the Health Safety Net Trust Fund, established under M.G.L. c. 118E § 66. For inquiries regarding the Health Safety Net, individuals may email me the Health Safety Net help desk at hsnhelpdesk@state.ma.us.