

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2301228
Decision Date:	4/21/2023	Hearing Date:	03/14/2023
Hearing Officer:	Mariah Burns	Record Open to:	

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sarah Prado, Premium Assistance
Wilfred Colon, Quincy 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:	Approved	Issue:	Termination – Premium Assistance
Decision Date:	4/21/2023	Hearing Date:	03/14/2023
MassHealth’s Rep.:	Sarah Prado, Wilfredo Colon	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

Through a notice dated October 17, 2023, MassHealth terminated the appellant’s Premium Assistance payments because MassHealth determined that the appellant’s health plan no longer meets MassHealth rules (see 130 CMR 506.012 and Exhibit 1). The appellant filed this appeal in a timely manner on February 15, 2023 (see 130 CMR 610.015(B), Mass Health EOM 22-10 and Exhibit 2). Termination of benefits is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant’s Premium Assistance benefits.

Issue

Whether MassHealth was correct in terminating the appellant’s Premium Assistance Payments.

Summary of Evidence

A representative from MassHealth’s premium assistance (PA) program appeared at hearing and testified that, until the notice at issue, the appellant was receiving PA benefits in the amount of \$358.91 per month for her Health New England insurance plan that she received through her

employer. At the time, the appellant's plan reflected deductibles of \$1000 for an individual and \$2000 for families. On December 14, 2022, the appellant's employer sent Premium Assistance new rates that went into effect on December 1, 2022. Those new rates reflected deductibles of \$3000 for individuals and \$6000 for families. The PA representative indicated that the appellant's deductible cannot be higher than \$5700, and her plan therefore disqualifies her from PA payments. The appellant did provide a Health Reimbursement Arrangement (HRA) to lower her deductible, but the regulations prevent MassHealth from accepting HRAs. The appellant's last PA payment was made on October 5, 2022, which would have been for the month of November, as PA payments are made a month in advance.

The appellant indicated that she was simply looking for an explanation about why her benefits were terminated. Her husband recently passed away, and her son is still a dependent.

Findings of Fact

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

1. The appellant was actively receiving MassHealth Premium Assistance payments in the amount of \$358.91, which went towards her Health New England plan she had through her employer. Prior to December 1, 2022, the plan met the eligibility requirements for Premium Assistance. Testimony.
2. At some point in late 2022,¹, the appellant's employer sent Premium Assistance new rates for the upcoming year, and the appellant's deductible increased significantly, making it no longer within MassHealth guidelines. Testimony, Exhibit 1, Exhibit 2.
3. On October 17, 2022, MassHealth issued a notice terminating the appellant's Premium Assistance payments, citing the increased deductible of her employer's insurance plan. Testimony, Exhibit 1.
4. Since the onset of the COVID-19 pandemic in March of 2020, MassHealth has been issuing Eligibility Operations Memos (EOM) limiting the scope of individuals who were able to be terminated from MassHealth during the federal public health emergency (FPHE) pursuant to federal laws, regulations, and guidelines. EOM 20-09, 21-09, 21-14, 21-17, 22-10.
5. The FPHE was lifted effective April 1, 2023, and federal laws, regulations, and guidelines require MassHealth to maintain individual coverage unless and until members undergo the redetermination process to verify their eligibility going forward. EOM 23-11, SHO 21-002.

¹ The Premium Assistance representative indicated that they received the new rates from the appellant's employer on December 13, 2022, but given that the notice issued in October, it is likely that the new rates were sent then, not December. See Exhibit 1.

Analysis and Conclusions of Law

On April 7, 2020, MassHealth released its first EOM establishing its response to the COVID-19 pandemic. *See* EOM 20-09. Included in that first EOM was a provision, based on federal guidelines, that protected coverage for “all individuals who have Medicaid coverage as of March 18, 2020, and for all individuals newly approved for coverage during the COVID-19 outbreak national emergency.” *Id.* The only members who were allowed to lose their coverage or have a decrease in benefits were those who 1) requested termination of eligibility, 2) were no longer a resident of Massachusetts, or 3) were deceased. *Id.*

Those protections remained in place until the release of EOM 21-14 in September 2021. In this EOM, MassHealth updated its protections, indicating first that “[m]embers with time-limited HSN, HSN Dental only, CSMP only, and CHIP aged-out individuals will no longer be eligible for continuous coverage through the FPHE.” EOM 21-14. It also established tiers within which that members would be allowed to move between coverage types. *Id.* Those tiers were updated in EOM 21-17, which was released in November 2021.

In the final COVID-19 response EOM, 22-10, which was released in August 2022, MassHealth did away with the tier system and indicated that, in preparation for the ending of the FPHE,

[M]embers’ coverage types...will change only if the program determination results in an upgrade. There will be no lateral or downgrade transitions between coverage types.

This new workaround complies with federal unwind guidance for the end of the FPHE that prohibits any adverse action, including a downgrade within the same tier of coverage, without first completing a full renewal of the member’s eligibility status.

EOM 22-10. Finally, EOM 23-11, released in April 2023, ended the continuous coverage policy established in March 2020. However, federal guidelines require MassHealth to undergo a 12-month unwinding period, during which “states will need to initiate a renewal of every beneficiary enrolled in their Medicaid and CHIP programs as of the end of the month prior to their unwinding period.” Center for Medicare and Medicaid Services SHO#22-001 at pg. 4, released March 3, 2022. Under these guidelines, “states may not terminate coverage for any individual determined to be ineligible for Medicaid, but not terminated, during the PHE...until the state has completed a redetermination *after* the PHE ends.” SHO #21-002 at pg. 4, released August 13, 2021 (emphasis added).

Given that the appellant was actively receiving Premium Assistance benefits on or after March 18, 2020, but before the end of the FPHE, she was entitled to the coverage protections established by EOM 20-09 and its progeny. Premium Assistance does not fall into any of the categories that were removed from the protections in EOM 21-14, (time-limited HSN, HSN Dental only, CSMP only, and CHIP aged-out individuals), and therefore there is no reason within the record why her benefits should have been terminated, notwithstanding her eligibility. Thus, I find that MassHealth should not have terminated the appellant’s Premium Assistance payments prior to the ending of the FPHE

and without conducting a redetermination thereafter. This appeal is approved.²

Order for MassHealth

Reinstate the appellant's MassHealth Premium Assistance payments until MassHealth undergoes a redetermination of the appellant's eligibility and issue backpay for the missed months of December 2022 and January, February, March, April, and May 2023.

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Premium Assistance Unit;
Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

² MassHealth must now initiate a full redetermination of the appellant's eligibility pursuant to its established process at which point, her Premium Assistance may be terminated, depending on her status. No finding will be made regarding her current eligibility for Premium Assistance or any other MassHealth program.