

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2301414
Decision Date:	5/31/2023	Hearing Date:	03/21/2023
Hearing Officer:	Kimberly Scanlon	Record Open to:	04/04/2023

Appearance for Appellant:
Via telephone,



Appearance for MassHealth:
Via telephone,
Elizabeth Nickoson



*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:	Eligibility; Voluntary Withdrawal
Decision Date:	5/31/2023	Hearing Date:	03/21/2023
MassHealth's Rep.:	Elizabeth Nickoson	Appellant's Rep.:	
Hearing Location:	Taunton MassHealth Enrollment Center Room 2 (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 November 1, 2022, MassHealth notified the Appellant that his MassHealth benefits will end on November 15, 2022 because the Appellant requested that they stop. (See, 130 CMR 502.009 and Exhibit 1). The Appellant filed this appeal in a timely manner on February 20, 2023. (See, 130 CMR 610.015(B) and Exhibit 2). Termination of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the Appellant that his MassHealth coverage will end on November 15, 2022.

Issue

The appeal issue is whether MassHealth was correct in notifying the Appellant that his MassHealth coverage will end on November 15, 2022.

Summary of Evidence

A MassHealth representative appeared at the hearing via telephone and testified as follows: The Appellant was listed as a household of 1 and was eligible for MassHealth CommonHealth due to being disabled. This coverage ended on November 15, 2022 because the Appellant requested that his health care benefits stop on or about October 19, 2022, according to her notes. Thus, a termination notice was sent to the Appellant dated November 1, 2022. It is unclear why MassHealth did not cancel the Appellant's coverage on October 19, 2022 and made inquiry as to who the Appellant spoke with upon cancelling his coverage.

The Appellant and his spouse appeared at the hearing via telephone and testified that the Appellant was now married and was added to his spouse's health insurance coverage in May of 2022. The Appellant did not recall who he spoke with during his initial telephone call to MassHealth, though he believes he first called in June of 2022 to cancel his MassHealth coverage. The Appellant further testified that he was never transferred to another department and was under the impression that he effectively cancelled his coverage. However, the Appellant continued to receive bills for his monthly premiums and called MassHealth again in October of 2022 in order to ascertain why he was still receiving said bills. The record was left open until April 4, 2023 for the Appellant and for the MassHealth representative to research whether there were any telephone calls made to Customer Service from the Appellant that were logged in prior to October of 2022. On or about March 23, 2023, the MassHealth representative responded that she was in receipt of the call logs from Customer Service that were requested from May of 2022 to present. Further, said logs did not show any telephone calls were received from the Appellant prior to October 19, 2022. Accordingly, MassHealth adjusted the premium and waived the November premium for the Appellant.

Findings of Fact

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

1. The Appellant was previously a MassHealth member. (Testimony).
2. On or about October 19, 2022, MassHealth received a telephone call from the Appellant to cancel his MassHealth benefits. (Testimony).
3. By notice dated November 1, 2022, MassHealth sent the Appellant a termination letter. (Testimony; Exhibit 1).
4. The Appellant was added to his spouse's health insurance in May of 2022. (Testimony; Exhibit 3).
5. The Appellant recalls calling in June of 2022 to cancel his MassHealth coverage; however, he

continued to receive monthly premium bills. (Testimony).

6. The Appellant does not recall who he spoke to when he contacted MassHealth to cancel his coverage. (Testimony).
7. The record was left open until April 4, 2023 for MassHealth to review prior calls that were made to Customer Service from the Appellant between May and November of 2022. (Exhibit 5).
8. The MassHealth representative reviewed the call logs that were provided by Customer Service and noted only one call from the Appellant on or about October 19, 2022. (Exhibit 6).
9. MassHealth adjusted the premiums and waived the November premium for the Appellant. (Exhibit 6).

Analysis and Conclusions of Law

Regulation 130 CMR 502.009: Voluntarily Withdrawal: states as follows: The applicant or authorized representative may voluntarily withdraw his or her application from MassHealth.

(130 CMR 502.009).

Moreover, Regulation 130 CMR 516.008: Notice provides as follows:

(A) The MassHealth agency provides all applicants and members written notice of the eligibility determination for MassHealth. The notice contains an eligibility decision for each member who has requested MassHealth, and either provides information so the applicant or member can determine the reason for any adverse decision or directs the applicant or member to such information.

(B) The MassHealth agency also provides to members notice of any changes in coverage type or patient-paid amount, or loss of coverage.

(C) In addition to sending notices to applicants and members, such written notices are provided to the authorized representative, the institution, if authorized by the applicant or member, as well as to the community spouse, as defined at 130 CMR 520.016(B)(1)(c): *Right to Appeal*. This may include, in the case of death, the executor, administrator, or legal representative of the deceased individual's estate.

(D) All notices provide information about the right of the applicant or member to a fair hearing, with the exception of asset assessments described at 130 CMR 520.016: *Long-term*

Care: Treatment of Assets and notices about federal or state law requiring an automatic change adversely affecting some or all members as described in 42 C.F.R. 431.220(b). Information about the appeal process is found at 130 CMR 610: *MassHealth: Fair Hearing Rules*.

(130 CMR 516.008).

In the present case, there is no dispute that the Appellant contacted MassHealth to cancel his coverage which prompted MassHealth to send the termination notice dated November 1, 2022. Thus, the only issue on appeal involves the date that the Appellant contacted MassHealth to cancel said coverage.

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(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 in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;
- (6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;
- (7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;
- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;
- (9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;
- (10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or

(11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

Here, the MassHealth representative reviewed the notes provided by Customer Service and noted that no telephone calls were received from the Appellant prior to October 19, 2022. Further, MassHealth adjusted the premiums and waived the November payment. There was no further documentation received by the Appellant during the record open period. Because the appeal issue has been resolved in favor of the Appellant, there is nothing left to dispute before the hearing officer. For the above stated reasons, this appeal is dismissed pursuant to 130 CMR 610.035(A)(8).

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616