

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2304195
Decision Date:	7/24/2023	Hearing Date:	06/21/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:



Appearance for MassHealth:

Via telephone:

Tambria Pioggia, Springfield 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:	Approval	Issue:	Eligibility
Decision Date:	7/24/2023	Hearing Date:	06/21/2023
MassHealth's Rep.:	Tambria Pioggia	Appellant's Rep.:	Application Counselor
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 May 1, 2023, MassHealth approved the appellant for MassHealth Senior Buy-In with a start date of June 1, 2023 (Exhibit 1). The appellant filed this appeal in a timely manner on May 22, 2023 and stated that she never received notification of the May 15, 2023 termination of her MassHealth Standard coverage, which she received through the Frail Elder Waiver (see 130 CMR 610.015(B) and Exhibit 2). A determination regarding scope of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for MassHealth Senior Buy-In with a start date of June 1, 2023, after terminating her MassHealth Standard benefits on May 15, 2023 without notice.

Issue

The appeal issue is whether MassHealth was correct in determining the termination date of the appellant's MassHealth Standard benefits and the start date of her MassHealth Senior Buy-In benefits.

Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: the appellant, who is over the age of 65, is appealing a May 1, 2023 approval notice for MassHealth Senior Buy-In benefits, effective June 1, 2023. Prior to the notice, the appellant had MassHealth Standard through the Frail Elder Waiver. On April 23, 2023, MassHealth received a signed, written letter from the appellant requesting MassHealth to stop her current benefits. MassHealth received a Buy-In application from the appellant on the same day. The MassHealth representative explained that MassHealth has 45 days to issue an eligibility determination and, on May 1, 2023, MassHealth timely issued the approval notice for Senior Buy-In benefits beginning on June 1, 2023. She stated that there is no retroactive coverage for Senior Buy-In benefits, instead they start the first date of the calendar month following the date of the determination. The appellant's MassHealth Standard benefits ended on May 15, 2023. She explained that per regulation 130 CMR 516.006(B), MassHealth benefits terminate or downgrade no sooner than 14 days from the date of the termination or downgrade notice.

The appellant was represented at hearing by a certified application counselor who testified as follows: the May 1, 2023 notice did not notify the appellant that her MassHealth Standard coverage would end. The appellant is seeking coverage for the gap in coverage from May 16, 2023 through May 31, 2023 because MassHealth did not properly notify the appellant of the downgrade. She stated that regulation 130 CMR 516.008 requires MassHealth to notify members of any change in coverage type or loss of coverage. The appellant believed that her MassHealth Standard coverage through the Frail Elder Waiver would continue until her Buy-In benefits began. The appellant received medical services during the gap in coverage that were not covered by MassHealth. Had she been notified of the termination of her MassHealth Standard benefits, she would not have sought services during that time period.

The MassHealth representative confirmed that no termination notice issued and, in the appellant's situation, a member should normally receive one. She explained that there is a new process when there is a change in application type from SACA to Buy-In. The case has to be terminated completely, a termination notice issued, and then a separate approval notice issued. There appeared to be a May 1, 2023 notice informing the appellant that she was not eligible for Buy-In coverage because she had other MassHealth coverage. But the worker held that notice and did not send it.

Findings of Fact

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

1. On April 23, 2023, MassHealth received an application for Buy-In benefits on behalf of the appellant, as well as a written letter signed by the appellant requesting that her current MassHealth Standard benefits received through the Frail Elder Waiver be terminated. (Testimony).
2. On May 1, 2023, MassHealth approved the appellant for MassHealth Senior Buy-In benefits with a start date of June 1, 2023. (Testimony and Exhibit 1).
3. MassHealth terminated the appellant's MassHealth Standard benefits on May 15, 2023, but did not notify the appellant of the termination. (Testimony).
4. On May 22, 2023, the appellant timely appealed the May 1, 2023 approval notice. (Testimony and Exhibit 2).
5. The appellant has a gap in coverage from May 16, 2023 through May 31, 2023 and medical bills that were incurred during that time and not covered by MassHealth. She was otherwise eligible for MassHealth benefits during that time. (Testimony).

Analysis and Conclusions of Law

The issue here is the gap in coverage created when MassHealth terminated the appellant's MassHealth Standard coverage on May 15, 2023 without notice. The appellant argues that her coverage never should have terminated on May 15 because she never received a termination notice. She contends that had she received a termination notice, she would not have received services during the gap in coverage before her Senior Buy-In benefits began on June 1, 2023.

The current appeal was filed on the May 1, 2023 notice approving the appellant for MassHealth Senior Buy-In. To address the gap in coverage, however, it is necessary to establish jurisdiction over MassHealth's May 15, 2023 termination action. Under 130 CMR 610.015(B)(2), unless waived by the Director or his or her designee, the Board of Hearings must receive a request for a fair hearing within 120 days from the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action. In this case, the MassHealth agency action (the termination of her MassHealth Standard benefits received through the Frail Elder Waiver) occurred on May 15, 2023.¹ The MassHealth representative acknowledged that a termination

¹ The 120-day mark after this action would have been around September 12, 2023.

notice should have issued but did not. As of May 1, 2023, appellant knew her Senior Buy-In benefits would take effect June 1, 2023. She presumed her MassHealth Standard benefits were still in effect, until she received medical bills that were not covered. There is no dispute that the appellant was otherwise still eligible for MassHealth Standard benefits under the Frail Elder Waiver during this time period. Under these circumstances, I find her appeal timely as to the May 15, 2023 termination action. See 130 CMR 610.015(B).

Pursuant to 130 CMR 519.010(C), the begin date for MassHealth Senior Buy-In is the first day of the calendar month following the date of the MassHealth eligibility determination. MassHealth received the appellant's Senior Buy-In application on April 23, 2023 and had 45 days from the date of receipt to issue an eligibility determination. See 516.005(A). MassHealth issued a timely decision on May 1, 2023 correctly informing the appellant of her approval for Senior Buy-In with a start date of June 1, 2023, the first date of the calendar month following the date of the determination.

As such, the only issue remaining is the gap in coverage from May 16, 2023 through May 31, 2023. Pursuant to 130 CMR 516.006(B), MassHealth benefits terminate or downgrade no sooner than 14 days **from the date of the termination or downgrade notice**. Additionally, 130 CMR 516.008(B) states that the MassHealth agency **provides members notice of any changes** in coverage type or loss of coverage.

While the appellant requested her coverage be downgraded from MassHealth Standard to the Senior Buy-In, she never received any notice from MassHealth informing her of the actual change in coverage type or loss of coverage, which the regulations require before any termination or downgrade occurs. As a result, she was unknowingly left with a gap in coverage during which she accrued uncovered medical bills. According to the Fair Hearing rules at 130 CMR 610.071(A)(2), "[t]he effective date of any adjustments to the appellant's eligibility status will be the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted." As the appellant was eligible for MassHealth Standard benefits through the Frail Elder Waiver at all relevant times, her benefits will be reinstated retroactive to the date of termination, May 16, 2023 through May 31, 2023.

Order for MassHealth

Reinstate the appellant's MassHealth Standard benefits received through the Frail Elder Waiver effective May 16, 2023 through May 31, 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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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