

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2305403
Decision Date:	2/5/2024	Hearing Date:	12/04/2023
Hearing Officer:	Kimberly Scanlon		

Appearances for Appellant:

Via telephone



Appearances for MassHealth:

Via telephone

Langze Phunkhang

Jo-Ann Donovan



*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:	Eligibility; Under 65; Termination
Decision Date:	2/5/2024	Hearing Date:	12/04/2023
MassHealth's Rep.:	Langze Phunkhang; Jo-Ann Donovan	Appellant's Rep.:	Father; Mother
Hearing Location:	Charlestown 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 July 3, 2023, MassHealth notified the appellant that his benefits would end on July 17, 2023 because he withdrew his application (130 CMR 502.009; Exhibit 1). The appellant's parents filed this appeal in a timely manner on or about July 3, 2023 (130 CMR 610.015(B); Exhibit 2).¹ Termination of assistance is valid grounds for appeal (130 CMR 610.032). The hearing was initially scheduled for November 7, 2023, but was rescheduled so that a representative from MassHealth's Premium Assistance unit could attend. (Exhibit 6). The hearing was reconvened on December 4, 2023 (Exhibit 7).² At the conclusion of the hearing, the record was left open until December 18, 2023 for submission of additional documentation (Exhibit 9).

Action Taken by MassHealth

¹ By notice dated July 5, 2023, the Board of Hearings (hereinafter "BOH") dismissed the appeal for failure to include a parental signature (Exhibit 4). BOH sent an additional copy of the notice to the appellant on October 2, 2023. *Id.* On October 10, 2023, the appellant filed this appeal with the proper signature (Exhibit 5). Upon receipt, BOH scheduled a hearing (Exhibit 6).

² The purpose of reconvening included, *inter alia*, obtaining additional information from the Premium Billing Unit. Due to administrative error, the Premium Billing Unit did not attend the reconvened hearing (Exhibit 8).

MassHealth notified the appellant that his benefits would end on July 17, 2023 because he withdrew his application.

Issue

The appeal issue is whether MassHealth was correct in terminating the appellant's MassHealth benefits.

Summary of Evidence

The MassHealth representatives appeared at the hearings *via* telephone. Through testimony at both hearings, MassHealth presented the following chronology: The appellant is a minor child. He resides in a household of 5 and the monthly household income equals 1,207.17% of the federal poverty level (Exhibit 7, p. 7). On or about September 27, 2022, the appellant applied for MassHealth benefits. On or about that same date, MassHealth notified the appellant that he did not qualify for MassHealth benefits because the household income exceeds MassHealth program limits.³ On or about October 12, 2022, MassHealth received notification from Disability Evaluation Services (hereinafter "DES") that the appellant had been determined to have a permanent and total disability. On or about October 12, 2022, MassHealth notified that appellant that he was eligible for MassHealth CommonHealth benefits effective September 17, 2022 (Exhibit 11, pp. 4-5, 12-15). The approval notice also informed the appellant that a \$1,060.80 monthly premium would be assessed beginning in November 2022 (Exhibit 11, p. 8).⁴

By notice dated April 14, 2023, MassHealth informed the appellant that his MassHealth CommonHealth monthly premium would begin after June of 2023 (Exhibit 11, p. 3).⁵ The notice further stated that, if the appellant did not want to pay the assessed premium, he would need to cancel his benefits by June 13, 2023. *Id.* On July 3, 2023, the appellant's father contacted MassHealth to cancel the appellant's coverage.⁶ On that same date, MassHealth sent the appellant the termination notice that has been appealed (Exhibit 1).

³ The September 27, 2022 notice also stated that the appellant was approved for Children's Medical Security Plan (hereinafter "CMSP") benefits (Exhibit 11, pp. 6-9).

⁴ The appellant applied for benefits before he had been found disabled; this chronology led to the issuance of a denial notice and a subsequent approval notice the following month – understandably confusing for the family.

⁵ Due to the public health emergency related to COVID 19, MassHealth did not send premium bills for a period. This explains why MassHealth did not send the appellant any premium bills from November 2022 through July 2023, and sent notice to the appellant in April 2023 advising him that his premiums would begin.

⁶ The MassHealth representatives clarified some confusion regarding the cancellation of coverage. The appellant's father claimed that *his* benefits were terminated and not the child's benefits, as requested. The MassHealth representatives clarified that the appellant's benefits were in fact terminated and confirmed that no other household member applied for nor received MassHealth benefits.

The appellant's parents appeared at the hearings *via* telephone and testified that the appellant is a minor child with a medical diagnosis of autism. The parents are health care providers and were informed by colleagues that MassHealth can be used as a secondary insurance. The appellant has numerous medical and dental appointments, so the purpose of applying was to off-set some of the healthcare associated costs. The appellant's parents knew about the September 2022 denial and contacted MassHealth on or about March 17, 2023 to ask about the reason for denial. During this conversation, they were told that not all medical providers accept MassHealth coverage. Because their child already received primary insurance benefits, the parents made no further inquiry.

Months later, specifically on July 3, 2023, the appellant received a monthly premium bill in the amount of \$1,060.80 to cover the month of June, 2023 (Exhibit 10, p. 1). The appellant's parents stated the bill was addressed to them and not to the appellant (the minor child).⁷ They contacted MassHealth customer service again to clarify the reason that the parent was billed. At that time, MassHealth confirmed that the appellant had active MassHealth coverage. The parents explained that they were confused because the appellant received a denial notice dated September 27, 2022; they were then told that they would not have to pay that premium bill.

The appellant's parents argue that they were never notified that the appellant was approved for MassHealth CommonHealth benefits until they received a premium bill in July of 2023. They maintain that they never received the October 2022 approval notice, nor the April 2023 notice referenced above. They feel that the entire MassHealth application process is unfair and misleading. It does not make sense to them that their child's application was denied, only to be approved a month later. They feel that they were taken advantage of, and do not feel that they should be responsible for any premiums.⁸ They further stated that they never used the MassHealth coverage, further evidence that they were not aware that their son had a MassHealth benefit.

Findings of Fact

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

1. The appellant is a minor child.
2. The appellant resides in a household of 5 and the monthly household income equals 1,207.17% of the federal poverty level.
3. On or about September 27, 2022, the appellant applied for MassHealth benefits.

⁷ MassHealth clarified that because the appellant is a minor child, the premium bills were appropriately addressed to the appellant's parent.

⁸ The record indicates that the appellant owes premiums in the amount of \$2,121.60.

4. On or about September 27, 2022, MassHealth notified the appellant that he did not qualify for MassHealth benefits because the household income exceeds MassHealth program limits.
5. On or about October 12, 2022, MassHealth received notification from DES that the appellant had been determined to have a permanent and total disability.
6. On or about October 12, 2022, MassHealth allegedly notified that appellant that he was eligible for MassHealth CommonHealth benefits effective September 17, 2022; this approval notice also informed the appellant that a \$1,060.80 monthly premium would be assessed beginning in November 2022.
7. The appellant's parents did not receive this October notice.
8. By notice dated April 14, 2023, MassHealth allegedly informed the appellant that his MassHealth CommonHealth monthly premium would begin after June of 2023; the notice further stated that if the appellant did not want to pay the assessed premium, he would need to cancel his benefits by June 13, 2023.
9. The appellant's parents did not receive this April notice.
10. On July 3, 2023, the appellant's father contacted MassHealth to cancel the appellant's coverage.
11. On July 3, 2023, MassHealth notified the appellant that his benefits would end on July 17, 2023 because he withdrew his application.
12. On July 3, 2023, the appellant appealed the July 3rd notice to the Board of Hearings.

Analysis and Conclusions of Law

The appellant's parents clarified at hearing that their dispute with MassHealth involves the premiums assessed related to their son's MassHealth CommonHealth coverage – a benefit they claim they did not know their son had. The most recent notice related to the premiums is the April 14, 2023 notice that advises the appellant that due to the end of the public health emergency, his premium would begin. To timely appeal a MassHealth action, the member must file an appeal with BOH within 60 days of receiving the written notice in dispute (130 CMR 610.015(B)(1)). Alternatively, when the member has alleged that MassHealth failed to send written notice of the action, as the appellant alleged here, the time limitation on the right of appeal is extended to 120 days from the date of the action (130 CMR 610.015(B)(2)(c)).

I credit the appellant father's testimony that he did not receive the April 2023 notice and

therefore did not know he only had 60 days to cancel his son's coverage. The father testified credibly several times that all he received from MassHealth was the September 2022 denial notice and the July 2023 bill. Indeed, I credit the father's testimony that he called immediately after receiving the July 2023 bill, which supports my finding that he would have called immediately to cancel had he received the April 2023 notice. The father provided compelling and credible testimony that they were not expecting any further notices from MassHealth after September 2022 denial notice because they did not submit additional information or applications to MassHealth after that date. These facts, coupled with the fact that the record does not include any persuasive evidence that MassHealth sent the notice, leads me to conclude that the appellant timely appealed the April notice (130 CMR 610.015(B)(2)(c)).

The appellant's parents applied for MassHealth benefits on their son's behalf but did not want the coverage once aware of the monthly premium of \$1,060.80. They have demonstrated that, but for lack of notice, they would have cancelled the coverage and would not have had to pay any premiums.

The appeal is approved.

Order for MassHealth

Waive all MassHealth CommonHealth premiums.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

MassHealth Premium Billing