

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed-in-part; Denied-in-part	Appeal Number:	2305922
Decision Date:	11/9/2023	Hearing Date:	09/25/2023
Hearing Officer:	Casey Groff, Esq.	Record Closed:	10/06/2023

Appearances for Appellant:



Appearances for MassHealth:

Nancy Derisma, Charlestown MEC
Karishma Raja, Premium Billing



*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-in-part; Denied-in-part	Issue:	Eligibility; Under 65; CommonHealth; Premium Billing
Decision Date:	11/9/2023	Hearing Date:	09/25/2023
MassHealth's Reps.:	Nancy Derisma, Karishma Raja	Appellant's Reps.:	[REDACTED]
Hearing Location:	Board of Hearings (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 letter dated 7/5/2023, MassHealth notified Appellant that he did not qualify for MassHealth because he withdrew his application and that his CommonHealth coverage would end on 7/19/2023. See 130 CMR 502.009 and Exhibit 1. On 7/19/2023, Appellant filed a timely request for fair hearing with the Board of Hearings (BOH). See Exh. 2. Denial and/or termination of assistance is valid ground for appeal. See 130 CMR 610.032(A). A hearing was initially scheduled for 8/17/23, but at Appellant's request, the matter was rescheduled to 9/25/23.¹ At the conclusion of the hearing, the record was left open until 10/6/23 to allow the parties to review and respond to evidence presented at hearing. See Exh. 8.

Action Taken by MassHealth

¹ At the outset of the scheduled hearing for 8/17/23, Appellant indicated that his actual dispute concerned MassHealth's 3/4/23 approval for CommonHealth which was unknown to him at the time and for which MassHealth billed him over \$2,000 in past-owed premiums. Based on the nature of his dispute, the hearing was rescheduled to allow Appellant's wife, the head of household on his case, to present testimony regarding their receipt of the 3/4/23 notice and for MassHealth to present evidence of the premium bills issued, as well as evidence of any related notices that may be actionable under Appellant's 7/19/23 fair hearing request.

MassHealth notified Appellant that he was not eligible for MassHealth benefits because he voluntarily withdrew his application and that his CommonHealth coverage would end on 7/19/23.

Issue

The appeal issue is whether MassHealth correctly determined that Appellant was no longer eligible for MassHealth benefits and ended his CommonHealth benefit on 7/19/23.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by telephone and testified as follows: Appellant is an adult male under the age of 65 and has a verified disability through social security. On March 4, 2023, MassHealth automatically redetermined Appellant's eligibility for MassHealth benefits. At the time, Appellant was not enrolled in a MassHealth benefit. Pursuant to the redetermination, MassHealth issued a notice, dated 3/4/23 informing Appellant that he was approved for MassHealth CommonHealth effective 2/22/2023 with a monthly premium of \$1,088.00 that would be owed starting April 2023. See Exh. 6. The MassHealth representative indicated that MassHealth calculates premiums for individuals on CommonHealth based on their household income. The information on file showed that Appellant's monthly household income was at 1,223.52% of the federal poverty level (FPL). The 3/4/23 approval notice further instructed Appellant, as follows:

If you do not want to pay the premium, you must tell us to cancel your benefits within 60 days from the date you were notified of a new or changed premium. If you do not cancel your benefits by that date, you will need to pay any premium bills you get.

See id.

The eligibility representative testified that according to case notes, Appellant's wife (listed as head of household on their case) contacted MassHealth on July 5, 2023 and indicated that neither she nor Appellant received the 3/4/23 approval notice, did not want coverage, and requested the benefit be terminated. Through a letter dated 7/5/23, MassHealth issued a notice informing Appellant that he did not qualify for MassHealth because he voluntarily withdrew his application and that his CommonHealth coverage would end on July 19, 2023. See Exh. 1. On July 19, 2023, Appellant filed a timely request for a fair hearing with the Board of Hearings (BOH), which prompted a hearing to be scheduled on the 7/5/2023 notice.

The MassHealth eligibility representative provided additional background information indicating that Appellant's wife originally filed an application for their household applied on March 22, 2022.

At that time, MassHealth denied the application with respect to both Appellant and his wife because their income exceeded program limits. There was no action on either of their cases until the 3/4/23 redetermination wherein Appellant was deemed eligible for CommonHealth. During a record-open period, the MassHealth eligibility representative confirmed that, after researching and discussing the case with her supervisor, MassHealth's 3/4/23 approval was appropriate and not made in error. Appellant was verified in the system as being disabled with income and met all criteria for the CommonHealth benefit. As such, MassHealth automatically enrolled him in CommonHealth. See Exh. 9.

A representative from MassHealth's premium billing unit appeared at the hearing by telephone and reiterated that the 3/4/23 approval notice informed Appellant of his assessed premium and his responsibility to cancel coverage within 60-days if he did not want to pay the premium. Although the notice indicated he would be billed for the premium starting in April 2023, MassHealth, at that time, was waiving premiums during the covid-19 public health emergency (PHE). As of May 31, 2023, MassHealth discontinued waiving premiums as the protections afforded by the PHE had been lifted. Accordingly, MassHealth billed Appellant \$1,088 for the month of June and again for July 2023. Appellant has a current total outstanding balance of \$2,176.00 on the account. The premium billing representative indicated that under MassHealth regulation 130 CMR 506.011(C)(5), and as indicated in the 3/4/23 notice, members may opt out of paying the premium if they cancel coverage within 60-days of the approval/premium notice. Because Appellant's voluntary withdrawal was outside the 60-day timeframe, he is responsible for the full amount of the June and July premiums.

Appellant and his wife appeared at the hearing and testified as follows: In March of 2022, Appellant's wife completed a MassHealth application for health care benefits on behalf of herself, Appellant, and their daughter. Both Appellant and his wife were denied coverage for having income that exceeded the program limit. Their daughter was separately approved for CarePlus as an individual over 19 years of age with income less than 133% of the FPL. Following the March 2022 denial, Appellant and his wife found health insurance elsewhere and have been satisfied with their coverage. Appellant testified that approximately [REDACTED] years ago he was deemed disabled through social security and receives Medicare as a primary benefit. After the March 2022 denial, he obtained a private supplementary insurance, and his wife obtained insurance through the health connector.

Appellant and his wife asserted that they never received the 3/4/23 approval notice. They confirmed that they have lived at the same address as listed on the notice for all relevant time periods. Appellant's wife explained that she reviews all their mail and would have seen the notice had it been sent. She further explained that if they had been timely advised of the approval, they would have immediately cancelled coverage as they were satisfied with their coverage and had no need for additional insurance. Appellant testified that he was completely unaware of his CommonHealth benefit until he received his MassHealth ID card and bills for the premium in early July. He also asserted that he would have had no reason to expect being enrolled since there had

been no activity on their case since receiving the denial a year prior.

Appellant's wife testified that she called MassHealth in July to inquire about the mail they began receiving referencing this coverage. It was during the call on 7/5/23 that she first learned of the 3/4/23 notice. The MassHealth representative on the call explained that MassHealth automatically "turned everyone on" that had applied and been denied coverage during Covid. Appellant's wife requested that Appellant's coverage be cancelled. She was told that she missed the 60-day window to have the premium waived but that she could appeal to BOH. Appellant and his wife testified that they could not understand why MassHealth would automatically enroll a person in coverage that they did not request or need, and then charge them for the coverage. Appellant testified that he never used the CommonHealth benefit or his MassHealth ID card while he was enrolled.

Findings of Fact

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

1. Appellant is an adult male under the age of 65 with a verified disability through social security.
2. On March 22, 2022, Appellant and his wife applied for MassHealth benefits, and, on the same date, were informed that their application was denied because their household income exceeded program limits.
3. Following the denial, Appellant and his wife obtained insurance elsewhere and Appellant was fully covered through his primary Medicare benefit and a private supplementary insurance.
4. On March 4, 2023, MassHealth redetermined Appellant's eligibility for benefits and found that he met all eligibility requirements for MassHealth CommonHealth.
5. MassHealth generated an approval notice dated 3/4/23, which informed Appellant that he was approved for CommonHealth effective 2/22/2023 and would owe a monthly premium of \$1,088.00 starting in April 2023.
6. The assessed premium was based on Appellant's household income at 1,223.52% of the FPL.
7. The March 4th notice provided the following instruction: If you do not want to pay the premium, you must tell us to cancel your benefits within 60 days from the date you were notified of a new or changed premium. If you do not cancel your benefits by that date, you will need to pay any premium bills you get.
8. MassHealth did not receive a request from Appellant within 60-days of the 3/4/23 notice to cancel coverage.
9. Appellant received bills for his June and July 2023 premiums; however, his April and May

premiums were waived due to protections afforded through the Covid-19 PHE.

10. On 7/5/23 Appellant's wife contacted MassHealth to request his benefit be cancelled and indicated that she and Appellant never received the 3/4/23 approval notice.
11. MassHealth issued a letter dated 7/5/23 confirming Appellant's voluntary withdrawal and indicating that his CommonHealth benefit would end on July 19, 2023.
12. On July 19, 2023, Appellant filed a timely request for a fair hearing with BOH, which was within the timeline to appeal the 7/5/23 notice.

Analysis and Conclusions of Law

In this case, Appellant disputes MassHealth's eligibility determination approving him for CommonHealth with the assessed premium of \$1,088 per month. The notice advising Appellant of this eligibility determination, however, was dated March 4, 2023.² To appeal a MassHealth action, the aggrieved party must file an appeal with BOH within 60 days of receiving the written notice in dispute. See 130 CMR 610.015(B)(1). Alternatively, when the dispute involves MassHealth's failure to send written notice of the action, as Appellant alleged here, the time limitation on the right of appeal extends 120 days from the date of the action. See 130 CMR 610.015(B)(2)(c). Appellant filed this fair hearing request with the Board of Hearings (BOH) on July 19, 2023, - 137 days after the MassHealth action date of 3/4/23. Because the appeal was not filed within either the 60-day or 120-day periods, BOH does not have jurisdiction to adjudicate any issue relating to the 3/4/23 notice. For these reasons, the appeal is DISMISSED-in-part with respect to the 3/4/23 notice. See 130 CMR 610.035(A)(1) (BOH will dismiss a request for a hearing when the request is not received within the time frame specified in 130 CMR 610.015).

Appellant's 7/19/23 fair hearing request was, however, received within the 60-day limit to appeal the 7/5/23 notice of voluntary withdrawal. There is no factual or legal dispute regarding the appropriateness of this determination.³ The evidence indicates that MassHealth did not receive Appellant's request to cancel his benefit until July 5, 2023. Based on the 7/5/23 request, MassHealth correctly notified Appellant, through a letter dated the same day, that his

² While not explicitly addressed at hearing, the change in Appellant's eligibility likely came from the elimination of previous eligibility requirements, which had prevented certain disabled adults with income over 133% of the FPL from obtaining CommonHealth. See MassHealth Eligibility Operations Memo 22-17 (December 2022). Under general eligibility regulations, MassHealth reviews eligibility once every 12 months or in other circumstances, including a change in MassHealth eligibility rules. See 130 CMR 502.007(A). Eligibility reviews may be performed through a variety of ways, including automatic renewals, data matches, and prepopulated applications. See 130 CMR 502.007(C).

³ Appellant did not allege that the 7/5/23 notice was erroneous, nor did he provide evidence to suggest he or his wife contacted MassHealth to cancel coverage at an earlier date.

CommonHealth benefit would end on 7/19/23. See 130 CMR 502.006(D) (MassHealth benefits terminate or downgrade no sooner than 14 days from the date of termination/downgrade notice).⁴ As there is no evidence to indicate that MassHealth erred in terminating Appellant's benefit, the appeal is DENIED-in-part with respect to the 7/5/23 notice.

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

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

Premium Billing

⁴ Unless the member requests withdrawal within 60-days of the notice pursuant to 130 CMR 506.011(C)(5), MassHealth provides that "[t]he member is responsible for the payment of all premiums up to and including the calendar month of the withdrawal." See 130 CMR 506.011(H).