

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2306160
Decision Date:	10/17/2023	Hearing Date:	08/24/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone
Pro se

Appearance for MassHealth:
Via telephone
Yassory Pena



*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; Over 65
Decision Date:	10/17/23	Hearing Date:	08/24/2023
MassHealth's Rep.:	Yassory Pena	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Tewksbury MassHealth Enrollment Center Room 1 (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 14, 2023, MassHealth informed the Appellant that he no longer qualifies for MassHealth benefits because he did not complete the annual eligibility renewal within the allowed time. The notice further stated that the Appellant's coverage is ending on July 28, 2023. (130 CMR 502.007(C)(2); Exhibit 1). The Appellant filed this appeal in a timely manner on July 24, 2023. (130 CMR 610.015(B); Exhibit 2). Termination of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the Appellant that his coverage was being terminated because he did not complete the annual eligibility renewal within the allowed timeframe.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant's coverage should be terminated.

Summary of Evidence

The MassHealth representative appeared at the hearing *via* telephone and testified as follows: the notice on appeal was generated from the MassHealth “under 65” system. The Appellant is now over the age of 65 however, during the COVID pandemic all benefits were protected. When the pandemic protections were lifted, MassHealth began transitioning members into the correct system(s). Here, the Appellant was transitioned to the “over 65” system. However, MassHealth will need the Appellant’s renewal application to renew his coverage.

The Appellant appeared at the hearing *via* telephone and testified that he mailed his renewal application to MassHealth last week. In response, the MassHealth representative explained that she did not receive his application, as of date. She further explained that once his renewal application is received and processed, the Appellant will receive another notice by mail. The MassHealth representative testified that she would await to receive the Appellant’s application. She explained that another copy of the Appellant’s renewal application will be mailed to him as well. The MassHealth representative explained that if she has any questions for the Appellant which pertain to his application once received, she will contact him by telephone. The Appellant inquired as to what has changed because his income, disability and assets remain the same. In response, the MassHealth representative explained that the income and asset guidelines change for members who are 65 or older.

Findings of Fact

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

1. The Appellant is over the age of 65. (Testimony; Exhibit 3).
2. On or about July 14, 2023, MassHealth informed the Appellant that his coverage was ending on July 28, 2023 because he did not complete the annual eligibility renewal application within the allowed time. (Testimony; Exhibit 1).
3. The Appellant timely appealed on or about July 24, 2023. (Exhibit 2).
4. The Appellant recently mailed in his renewal application. (Testimony).

Analysis and Conclusions of Law

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)).

In the present case, the Appellant testified that he mailed in his annual eligibility renewal application. The MassHealth representative testified that she would await his application and contact him by telephone once received if she has any questions. Further, the Appellant will receive another notice by mail after his application is received and processed. Because the appeal issue has been resolved in the Appellant's favor, there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed. Any subsequent MassHealth notices issued to the Appellant may be separately appealed.¹

¹ The Appellant is encouraged to contact the Department of Transitional Assistance ("DTA") with any questions pertaining to food stamps, as discussed at the hearing.

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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290