

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2306757
<b>Decision Date:</b>	11/1/2023	<b>Hearing Date:</b>	09/12/2023
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**  
*Via telephone*  
*Pro se*

**Appearance for MassHealth:**  
*Via telephone*  
Meghan Adie; Stephanie Herr (observing)



*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

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Eligibility; Over 65
<b>Decision Date:</b>	11/1/2023	<b>Hearing Date:</b>	09/12/2023
<b>MassHealth's Rep.:</b>	Meghan Adie	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 1 (Remote)	<b>Aid Pending:</b>	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 27, 2023, MassHealth notified the Appellant that her MassHealth benefits were being terminated on August 10, 2023 because the Appellant did not return her renewal application to MassHealth. (130 CMR 502.007; 516.006; Exhibit 1). The Appellant filed this appeal in a timely manner on August 2, 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 her benefits were being terminated on August 10, 2023 due to not receiving her renewal application.

### Issue

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

## Summary of Evidence

The MassHealth representative appeared at the hearing *via* telephone and testified as follows: the Appellant has been receiving MassHealth Standard and Senior Buy In benefits since 2014. In June of 2023, MassHealth sent the Appellant a renewal application that was due in July of 2023. The MassHealth representative explained that MassHealth did not receive the Appellant's renewal application which generated the termination notice dated July 27, 2023. (Exhibit 1). The MassHealth representative further explained that in August of 2023, MassHealth did receive the Appellant's renewal application which was processed. As a result, the Appellant's previous benefits have been reinstated without a gap in her coverage. MassHealth subsequently sent the Appellant a request for additional information on August 16, 2023 and made inquiry as to whether the Appellant received this notice.

The Appellant appeared at the hearing telephonically and testified that she received a notice stating she must return further information to MassHealth by November of 2023. The MassHealth representative explained that the requested information is the only documentation that MassHealth awaits at this time. She further explained that the Appellant's coverage is currently active. The MassHealth representative confirmed the Appellant's information that is requested by MassHealth includes a current paystub, registration or excise tax bill and bank statements.<sup>1</sup> The Appellant expressed her appreciation and explained that the delay in her submission of her renewal application was due to mailing issues because she resides in a housing complex.

## Findings of Fact

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

1. The Appellant is over the age of 65. (Exhibit 3).
2. On or about July 27, 2023, MassHealth notified the Appellant that her benefits were being terminated on August 10, 2023 for failure to return her renewal application. (Testimony; Exhibit 1).
3. The Appellant timely appealed on August 2, 2023. (Exhibit 2).
4. In August of 2023, MassHealth received the Appellant's renewal application. (Testimony).
5. The Appellant's benefits have been restored without a gap in her coverage. (Testimony).

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<sup>1</sup> At the hearing, the MassHealth representative corrected the remaining outstanding information contained on the Appellant's renewal application, after hearing testimony from the Appellant.

## 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 MassHealth representative testified that the Appellant's renewal application was subsequently received and has been processed. Moreover, the Appellant's benefits have been restored without a gap in coverage. 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.

## **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.

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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