

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307498
Decision Date:	12/13/2023	Hearing Date:	11/27/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

Pro se

 Father

Appearance for MassHealth:

Via telephone:

Sherri Paiva, Taunton MEC

Sarah Prado, Premium Assistance



*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:	Denied	Issue:	Premium Assistance
Decision Date:	12/13/2023	Hearing Date:	11/27/2023
MassHealth's Rep.:	Sherri Paiva; Sarah Prado	Appellant's Rep.:	Pro se Father
Hearing Location:	Taunton 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 31, 2023, MassHealth informed the appellant that it was stopping her Premium Assistance payments because her health plan no longer meets MassHealth rules (Exhibit 1). The appellant attempted to file this appeal in on June 11, 2023, but did not send it to the Board of Hearings. It appears that she repeatedly sent the request for a fair hearing to Samantha Laskey of the Premium Assistance Unit (Exhibit 2). On August 25, 2023, Board of Hearings received the request for a fair hearing which it dismissed for not including the notice that prompted the appeal request (Exhibit 3). The Board of Hearings informed the appellant that the dismissal may be vacated if she provided the notice within ten days (Exhibit 3). On September 2, 2023, the appellant faxed a series of documents to the Board of Hearings including a copy of her Fair Hearing Request form, which was dated June 11, 2023, as well as the May 31, 2023 notice. On September 5, 2023, the Board of Hearings upheld the dismissal because the appellant had not requested a Fair Hearing within 60 days of the May 31, 2023 notice (see 130 CMR 610.015(B) and Exhibit 2). On September 14, 2023, the Board of Hearings declined to revoke the dismissal and a Request for Rehearing followed (Exhibit 3).

The Assistant Secretary for MassHealth received the appellant's Request for Rehearing. He approved the appellant's Request for Rehearing and ordered the Board of Hearings to schedule

the appeal based on the Fair Hearing Request form dated June 11, 2023 for the notice dated May 31, 2023. It was noted that the Board of Hearings did not err in dismissing the appeal because the Fair Hearing Request was never sent to the Board of Hearings until August 25, 2023, at the earliest; however, because it is likely that on appeal, a Superior Court judge would remand the case for a hearing on the merits, the Request for Rehearing was granted.

Denial and/or termination of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant's Premium Assistance payments.

Issue

The appeal issue is whether MassHealth acted properly in terminating the appellant's Premium Assistance payments.

Summary of Evidence

The appellant is a [REDACTED] MassHealth member with a household size of one. She appeared at hearing via telephone with her father. MassHealth was represented at hearing telephonically by an eligibility worker from the Taunton MassHealth Enrollment Center and a worker from Maximus, which operates MassHealth's Premium Assistance program.

MassHealth testified as follows: the appellant is receiving MassHealth through the Social Security Administrative, not MassHealth directly. On October 23, 2023, Premium Assistance received information on the appellant's employer sponsored insurance plan, HMO Blue. Currently, that plan has a \$4,000 deductible for an individual plan. For fiscal year 2023, the limit for the deductible for an individual plan is \$2,850; for fiscal year 2024, that limit is \$2,950. Pursuant to 130 CMR 506.012(B), which lays out the criteria for Premium Assistance plans, health insurance coverage must meet the Basic Benefit Level (BBL) as defined in 130 CMR 501.001. Pursuant to the regulations, health reimbursement arrangements (HRA) and health savings accounts (HSA) cannot be used to reduce the health insurance deductible in order to meet the basic benefit level requirement. The Premium Assistant representative explained that the appellant's employer utilizes an HRA to cover part of the appellant's deductible. Premium Assistance considers a plan's total deductible which, here, is \$4,000, and an HRA cannot be used to meet the BBL.

The appellant argued that her deductible is only \$1,000 because her employer pays the other \$3,000. She stated that pursuant to 130 CMR 501.001 her annual deductible and other out-of-pocket expenses do not exceed the maximum amounts because she only pays \$1,000. The

appellant's father felt that the rule against using an HRA contradicted the definition of BBL requirements in 130 CMR 501.001 which states in part that "benefits provided under a health insurance plan... provided that the annual deductible and the annual maximum out-of-pocket costs under that plan do not exceed the maximum amounts the Massachusetts Health Connector sets for deductibles and out-of-pocket costs in order for a plan to be considered minimum creditable coverage." The appellant and her father contended that because she only pays \$1,000, her out-of-pocket expenses do not exceed that limit.

Findings of Fact

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

1. The appellant is an adult under the age of 65 with a household size of one (Testimony and Exhibit 4).
2. The appellant receives MassHealth through the Social Security Administration (Testimony).
3. On May 31, 2023, MassHealth notified the appellant that her Premium Assistance payments had stopped (Exhibit 1).
4. The appellant did not timely appeal the notice to the Board of Hearings; however, the Assistant Secretary for MassHealth approved the appellant's Request for Rehearing and ordered the Board of Hearings to schedule the appeal for the notice dated May 31, 2023 (Exhibit 3).
5. The appellant has an employer sponsored health plan with a \$4,000 deductible for an individual plan (Testimony).
6. For fiscal year 2023, the limit for the deductible for an individual plan is \$2,850; for fiscal year 2024, that limit is \$2,950 (Testimony).
7. The appellant pays \$1,000 of her deductible and her employer utilizes a Health Reimbursement Account to cover the remaining \$3,000 of the appellant's deductible (Testimony).

Analysis and Conclusions of Law

Through its Premium Assistance program, MassHealth provides financial assistance to eligible members that have access to private health insurance, to help cover the cost of their health insurance premiums. See 130 CMR 506.012(C). Eligibility for this benefit is based on "the individual's coverage type and the type of private health insurance the individual has or has

access to.” See 130 CMR 506.012(C). Once enrolled, MassHealth issues “premium assistance payments” to the policyholder of the plan. The premium assistance payment is the amount MassHealth contributes to the cost of health insurance coverage for the member. See 130 CMR 501.001.

In regulation 130 CMR 506.012(B), MassHealth establishes the following criteria to determine eligibility for premium assistance:

(B) Criteria. MassHealth may provide a premium assistance payment to an eligible member when all of the following criteria are met.

(1) **The health insurance coverage meets the Basic Benefit Level (BBL) as defined in 130 CMR 501.001: *Definition of Terms*. Instruments including but not limited to Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.**

(2) The health insurance policy holder is either

(a) in the PBFG; or

(b) resides with the individual who is eligible for the premium assistance benefit and is related to the individual by blood, adoption, or marriage.

(3) At least one person covered by the health-insurance policy is eligible for MassHealth benefits as described in 130 CMR 506.012(A) and the health-insurance policy is a policy that meets the criteria of the MassHealth coverage type for premium assistance benefits as described in 130 CMR 506.012(C).¹

(emphasis added).

Furthermore, 130 CMR 501.001 defines the Basic Benefit Level as follows:

(1) benefits provided under a health insurance plan that include a broad range of medical benefits as defined in the minimum creditable coverage core services requirements in 956 CMR 5.03(1)(a); **provided that the annual deductible and the annual maximum out-of-pocket costs under that plan do not exceed the maximum amounts the Massachusetts Health Connector sets for deductibles and out-of-pocket costs in order for a plan to be considered minimum creditable coverage**, as set forth at 956 CMR 5.03(2)(b)2. and 3., and 956 CMR 5.03(2)(c), respectively, and as may be illustrated in administrative bulletins published by the Massachusetts Health Connector, and as are in effect on the first day coverage under that plan begins.

¹ 130 CMR 506.012(c) includes employer sponsored insurance as one of the enumerated qualifying policy types.

(2) Exceptions.

(a) For the avoidance of doubt, instruments including, but not limited to, Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.

(b) The MassHealth agency reserves the right to set its own annual deductible and maximum out-of-pocket limits. If the MassHealth agency deems it appropriate to set its own annual deductible and maximum out-of-pocket limits, a sub-regulatory bulletin will be issued.

(Emphasis added).

The Health Connector calculates minimum creditable coverage pursuant to 956 CMR 5.03(2)(b)(2) and (3). The regulation provides as follows:

2. any Deductible(s) for in-network Covered Services that are provided as part of the plan benefits shall not in combination exceed \$2,000 for an individual and \$4,000 for a family;

3. the dollar amounts for individuals specified in 965 CMR 5.03(2)(b)2. shall, unless the Connector Board establishes otherwise for a given calendar year, be adjusted each year by an amount equal to the product of that amount and the premium adjustment percentage for a calendar year as determined by the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 18022(c)(4). Such amounts are typically published by the Secretary in the annual Notice of Benefit and Payment Parameters regulations. If the amount of any adjustment is not a multiple of \$50, such adjustment shall be rounded down to the next lowest multiple of \$50. The dollar amounts for a family specified in 956 CMR 5.03(2)(b)2. shall be increased each year to an amount equal to twice the amount in effect for an individual, as adjusted pursuant to 956 CMR 5.03(2)(b)3...

In this appeal, MassHealth argues that the appellant does not qualify for premium assistance payments because her employee sponsored plan does not meet the criteria specified in 130 CMR 506.012(B)(1), above. Specifically, MassHealth determined that the appellant's employee sponsored plan does not meet the BBL because her annual deductible exceeds the maximum limit.

As testified to by the MassHealth representative, the deductible limits for 2023 is \$2,850 for individuals and for 2024, \$2,950.² The appellant's employer sponsored plan contains a \$4,000

² The deductible limits can also be found in the following bulletins providing guidance regarding the minimum creditable coverage regulations. For 2023 at <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin02-22.pdf> and for 2024 at <https://www.mahealthconnector.org/wp-content/uploads/AdminBulletin03-23.pdf>, last accessed on December 13, 2023.

deductible for individuals, which exceeds this limit. While the appellant argues that she only pays a \$1,000 deductible because her employer pays \$3,000 through the HRA, the regulations, including the full definition of Basic Benefit Level found in 130 CMR 501.001, are clear and unambiguous that HRAs and other instruments cannot be used to reduce the health insurance deductible in order to meet the BBL requirement.

For these reasons, MassHealth's decision was correct and the appeal is denied.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780
Premium Assistance Unit
