

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed-in-part; Denied-in-part	Appeal Number:	2307589
Decision Date:	11/14/2023	Hearing Date:	10/13/2023
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Ryan Bond, Tewksbury MEC



*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; Voluntary Withdrawal; Premium Billing
Decision Date:	11/14/2023	Hearing Date:	09/25/2023
MassHealth's Rep.:	Ryan Bond	Appellant's Rep.:	Husband
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 8/22/2023, MassHealth notified Appellant that he did not qualify for MassHealth because he withdrew his application and that his coverage would end on 9/5/2023. See 130 CMR 502.009 and Exhibit 1. On 8/25/2023, Appellant's husband filed a timely request for fair hearing on behalf of Appellant and designated himself as Appellant's appeal representative. See Exh. 2 and 130 CMR 610.015(B). Denial and/or termination of assistance is valid ground for appeal. See 130 CMR 610.032(A). On August 30, 2023, BOH dismissed the appeal for lack of authority because Appellant failed to sign the hearing request. See Exh. 3. On 9/15/23, Appellant sent BOH the fair hearing request with her signature to authorize the appeal. See Exh. 4. BOH vacated the dismissal and scheduled the hearing on 9/25/23. See Exh. 5.¹

¹ At hearing, Appellant's husband explained that the actual dispute concerned a MassHealth notice dated 3/4/23, which he alleged was never received, and which informed Appellant that she had been approved for CommonHealth with a monthly premium. As discussed in this decision, Appellant did not file a fair hearing request within the timeframe to challenge MassHealth's 3/4/23 approval and corresponding premiums. See 130 CMR 610.015(B). Therefore, BOH lacks jurisdiction to adjudicate this matter. The scope of this appeal is limited to the issue of the 8/22/23 MassHealth termination notice.

Action Taken by MassHealth

MassHealth notified Appellant that she was not eligible for MassHealth benefits because she withdrew her application and that her CommonHealth coverage would end on 9/5/23.

Issue

The appeal issue is whether MassHealth correctly determined that Appellant was no longer eligible for MassHealth benefits and correctly ended her CommonHealth benefit on 9/5/23.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by telephone and testified as follows: Appellant is an adult female under the age of 65 with a verified disability. 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 she was approved for MassHealth CommonHealth effective 2/22/2023 with a monthly premium of \$109.20 each month starting April 2023. See Exh. 2, p. 6. The 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 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 369.28% of the federal poverty level (FPL). According to system notes, there was no activity on the case until August 22, 2023, when Appellant and her husband, who is head of household on their case, went to a MassHealth enrollment center in-person to inquire about bills they received. Pursuant to the visit, Appellant requested that MassHealth terminate her benefit. Accordingly, MassHealth generated a notice dated 8/22/23 indicating that Appellant did not qualify for MassHealth because she withdrew her application and that her coverage would end on September 5, 2023. See Exh. 1. On August 25, 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 8/22/2023 notice.

Appellant's husband appeared at the hearing and testified that neither he nor his wife (Appellant) received the 3/4/23 approval notice which included the assessed premium or a MassHealth ID card that would have informed them of the coverage. Appellant's husband stated his wife is disabled and is very sick, requiring a lot of medical care. She has health insurance and was not seeking MassHealth when she was automatically enrolled in March. Appellant's husband testified that he and Appellant were out of the country from the first week of June 2023 and did not return until August 16, 2023. Upon their return, Appellant's husband opened the mail to find three bills from MassHealth for the months of June, July, and August at \$109, \$218, and \$327, respectively. He immediately called MassHealth but was unable to get anyone by phone. On 8/22/23 he and Appellant went to the MassHealth enrollment center in-person to inquire about the bills. It was not until speaking with someone at the enrollment center that they were aware of MassHealth's 3/4/23 notice approving Appellant for coverage. The eligibility representative at the enrollment center told them she could not waive the premiums as they had not requested cancellation within the 60-day window, and the best thing they could do was cancel the policy and appeal to the Board of Hearings (BOH). Appellant described that his wife is a very sick person and they have had to pay significant co-payments for medical treatment she has received. He does not have the money to pay the co-payments and felt that it was extremely unfair that MassHealth would make him them pay for coverage they never requested and that was unknown to them.

Findings of Fact

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

1. Appellant is an adult female under the age of 65 with a verified disability.
2. On March 4, 2023, MassHealth sent a letter to Appellant's address indicating that she was approved for MassHealth CommonHealth effective 2/22/2023 and would owe a monthly premium of \$109 starting in April 2023.
3. The 3/4/23 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.
4. The assessed premium was based on Appellant's household income at 369.28% of the FPL.
5. MassHealth did not receive a request from Appellant within 60-days of the 3/4/23 notice to cancel coverage.
6. MassHealth sent bills to Appellant's address for the premiums owed for June, July, and August 2023, and which came to a total owed amount of \$327.

7. Appellant did not receive the bills because she and her husband were out of the country from June through August 16, 2023.
8. On 8/22/23 Appellant and her husband requested that MassHealth cancel Appellant's CommonHealth benefit.
9. MassHealth issued a letter dated 8/22/23 confirming Appellant's withdrawal and indicating that her CommonHealth benefit would end on September 5, 2023.
10. On August 25, 2023, Appellant filed a timely request for a fair hearing with BOH, which was within the timeline to appeal the 8/22/23 notice.

Analysis and Conclusions of Law

In this case, Appellant disputes MassHealth's eligibility determination approving her for CommonHealth with the assessed premium of \$109 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 August 25, 2023, - 174 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 including the related premiums charged for the CommonHealth coverage. 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 8/25/23 fair hearing request was, however, received within the 60-day limit to appeal the 8/22/23 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 her benefit until 8/16/2023. In response,

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 8/22/23 notice was erroneous or provide evidence to suggest they contacted MassHealth to cancel coverage at an earlier date.

MassHealth correctly notified Appellant, through a letter dated the same day, that her CommonHealth benefit would end on 9/5/23. 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 8/22/23 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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957

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■ 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). There was no evidence that Appellant received a premium bill for the remaining coverage she had in September. This suggests that MassHealth correctly stopped billing Appellant for her premium after August 2023 – the month that she voluntarily withdrew from coverage. Id.