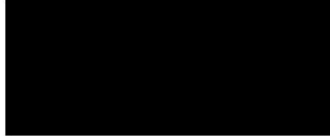


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2307979
Decision Date:	10/3/2023	Hearing Date:	09/25/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:



Appearance for MassHealth:

Stacey Ridel, Springfield MassHealth
Enrollment Center



*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:	Approved	Issue:	Over 65; Termination; Pandemic Protections;
Decision Date:	10/3/2023	Hearing Date:	09/25/2023
MassHealth's Rep.:	Stacey Ridel	Appellant's Rep.:	
Hearing Location:	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 19, 2023, MassHealth terminated the appellant's application for MassHealth benefits because the appellant did not submit a timely renewal of her benefits. *See* 130 CMR 502.007 and Exhibit 1. The appellant filed this appeal in a timely manner on September 7, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Termination of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the appellant's benefits.

Issue

The appeal issue is whether MassHealth was within its discretion to terminate the appellant's benefits.

Summary of Evidence

The appellant is an adult over the age of 65 who was represented telephonically at hearing by her spouse. The MassHealth representative is a worker from the Springfield MassHealth Enrollment Center who also appeared by telephone. The following is a summary of the testimony and evidence presented at hearing.

Prior to the issuing of the appealed notice, the appellant was a MassHealth Standard member with the Medicare Buy-In who turned [REDACTED] during the COVID-19 pandemic. MassHealth utilizes two different computer systems: one to manage benefits for members under the age of 65, and one for members ages 65 and over. When the appellant turned [REDACTED] she did not apply for senior benefits. However, due to protections put in place by the federal government and MassHealth during the pandemic, her benefits were not terminated.

On July 19, 2023, the under-65 computer system automatically generated a notice terminating the appellant's benefits as of August 2, 2023, for failure to submit her annual renewal. The notice also indicated that MassHealth was "not able to renew coverage based on available federal and state data sources." Exhibit 1 at 1. However, MassHealth never sent the appellant a renewal packet. The appellant has since applied for senior benefits and is, as of the writing of this decision, still in the verification stage. No redetermination has yet been made of the appellant's financial eligibility for MassHealth.

Findings of Fact

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

1. Prior to the issuance of the notice on appeal, the appellant was a MassHealth Standard Member with the Medicare Buy-In who turned [REDACTED] during the COVID-19 pandemic. Testimony, Exhibit 4.
2. MassHealth utilizes two different computer systems, one to manage coverage for members under 65, one to manage coverage for members 65 and older. Testimony.
3. The appellant did not apply for Senior benefits the year that she turned [REDACTED]. It was not until she received the notice at issue that she applied for Senior benefits. That application has been received by MassHealth and is still pending. Testimony
4. The appellant was receiving MassHealth Standard and the Medicare Buy-In through the under-65 computer system due to protections in place pursuant to the pandemic. Testimony. See EOM 20-09, 21-14, 21-17, and 22-10, discussed *supra*.

5. Those protections, which were imposed by the federal Center for Medicare and Medicaid Services, technically ended on April 1, 2023. See EOM 23-11, *supra*. However, MassHealth may not terminate a member's pandemic-protected benefits until their eligibility has been redetermined. See EOM 23-13.

6. On July 19, 2023, the under-65 system automatically generated a notice terminating the appellant's MassHealth benefits for failure to submit a timely renewal application when MassHealth could not complete an automatic renewal. Testimony, Exhibit 1.

7. MassHealth never provided the appellant with any kind of renewal application. Testimony.

8. The appellant has, as of the writing of this decision, been without MassHealth coverage since August 2, 2023. Exhibit 1.

Analysis and Conclusions of Law

On April 7, 2020, MassHealth released its first Eligibility Operations Memo (EOM) establishing its response to the COVID-19 pandemic. See EOM 20-09. Included in that first EOM was a provision, based on federal guidelines, that protected coverage for "all individuals who have Medicaid coverage as of March 18, 2020, and for all individuals newly approved for coverage during the COVID-19 outbreak national emergency." *Id.* The only members who were allowed to lose their coverage or have a decrease in benefits were those who 1) requested termination of eligibility, 2) were no longer a resident of Massachusetts, or 3) were deceased. *Id.*

Those protections remained in place until the release of EOM 21-14 in September 2021. In this EOM, MassHealth updated its protections, indicating first that "[m]embers with time-limited HSN, HSN Dental only, CSMP only, and CHIP aged-out individuals will no longer be eligible for continuous coverage through the FPHE." EOM 21-14. It also established tiers within which members would be allowed to move between coverage types. *Id.* Those tiers were updated in EOM 21-17, which was released in November 2021.

In the final COVID-19 response EOM, 22-10, which was released in August 2022, MassHealth did away with the tier system and indicated that, in preparation for the ending of the FHPE,

[M]embers' coverage types...will change only if the program determination results in an upgrade. There will be no lateral or downgrade transitions between coverage types.

This new workaround complies with federal unwind guidance for the end of the FPHE that prohibits any adverse action, including a downgrade within the same tier of coverage, without first completing a full renewal of the member's eligibility status.

EOM 22-10. Finally, EOM 23-11, released in April 2023, ended the continuous coverage policy established in March 2020. However, federal guidelines require MassHealth to undergo a 12-month unwinding period, during which “states will need to initiate a renewal of every beneficiary enrolled in their Medicaid and CHIP programs as of the end of the month prior to their unwinding period.” Center for Medicare and Medicaid Services SHO #22-001 at pg. 4, released March 3, 2022. Under these guidelines, “states may not terminate coverage for any individual determined to be ineligible for Medicaid, but not terminated, during the PHE...until the state has completed a redetermination after the PHE ends.” SHO #21-002 at pg. 4, released August 13, 2021. Particular reference is made to “individuals who may be eligible...on another basis may be terminated based on a change in circumstances related to a single factor of eligibility.” SHO #22-001 at pg. 12. Thus, “prior to taking adverse action based on an identified or reported beneficiary change in circumstances, states must complete a full renewal.” *Id.* MassHealth adopted these federal guidelines in EOM 23-13, also released in April 2023.

According to EOM 23-13, MassHealth is required to initiate the redetermination process for a member sometime between April 2023 and April 2024. MassHealth must first attempt to automatically process a member’s renewal “by matching their information against state and federal data.” *Id.* If such steps are unsuccessful, MassHealth will send the member a “blue envelope” with a renewal form, which the member will have 45 days to return. *Id.* If the member fails to return the blue envelope within the required time frame, or the renewal process determines the member to no longer be eligible for benefits, the member may then, and only then, be downgraded or terminated from MassHealth. *Id.* EOM 23-13 states that, for members who had benefits protected prior to April 1, 2023, MassHealth “cannot close or downgrade coverage until they complete an annual renewal or review.”

Additionally, MassHealth’s eligibility renewal process requires them to notify members if an automatic renewal cannot be completed. See 130 CMR 502.007(C)(2). In such circumstances, MassHealth must provide a prepopulated renewal application and give the member 45 days to complete and return it. *Id.* at (C)(2)(b). Only if the renewal application is not submitted in 45 days is MassHealth authorized to terminate a member’s coverage for failure to renew. *Id.* at (C)(2)(b).

Here, MassHealth did not abide by the requirements of both federal regulations and EOM 23-13. The appellant was not sent a blue envelope or given an opportunity to renew her application before her benefits were terminated. There is no indication that the appellant is no longer categorically eligible for MassHealth, and she is still undergoing the financial evaluation process. Thus, the appellant’s MassHealth benefits must be reinstated, with coverage retroactive to the termination date of August 2, 2023, and remain in place until her eligibility for senior benefits is able to be properly determined, regardless of the outcome of that application. The appeal is APPROVED.

Order for MassHealth

Reinstate the appellant's protected MassHealth Standard coverage with the Medicare Buy-In, retroactive to the termination date of August 2, 2023, until the appellant's financial eligibility for senior benefits is determined.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186

Cc:

Michael Levine, Assistant Secretary for MassHealth, Medicaid Director
Sharon Boyle, Esq., General Counsel for the Executive Office of Health and Human Services
Michael Capuano, Esq., Board of Hearings Board Counsel