

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2311714
<b>Decision Date:</b>	2/12/2024	<b>Hearing Date:</b>	12/21/2023
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
[Redacted] (the appellant's father)

**Appearance for MassHealth:**  
Dermar Coleman (Quincy MEC)  
Carmen Fabery (Premium Billing) *via* video  
conference



*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>	Approved	<b>Issue:</b>	Non-payment of premium
<b>Decision Date:</b>	2/12/2024	<b>Hearing Date:</b>	12/21/2023
<b>MassHealth's Rep.:</b>	Dermar Coleman; Carmen Fabery	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South		

### 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 September 28, 2023, MassHealth informed the appellant that his MassHealth coverage would end on October 12, 2023 because he had past due premium balances. (See 130 CMR 506.011 and Exhibit (Ex.) 1). The appellant's father (the appellant's representative) filed this appeal on his behalf in a timely manner on November 17, 2023. (See 130 CMR 610.015(B) and Ex. 2). Termination of assistance is valid grounds for appeal. (See 130 CMR 610.032(A)(3)).

### Action Taken by MassHealth

MassHealth informed the appellant that his MassHealth coverage would end on October 12, 2023 because of past due premium balances.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in determining that the appellant had past due premium balances.

## Summary of Evidence

The MassHealth representative who was present in the hearing room, testified that the appellant is under the age of 18 and lives in a household of four. (Ex. 6, p. 7). The MassHealth representative stated that the appellant's household income is \$260,000 per year from earnings. The MassHealth representative testified that the appellant was determined to be disabled. The appellant received CommonHealth from December 28, 2021 through October 12, 2023. (Ex. 3).

The Premium Billing representative, testifying remotely, confirmed that the appellant's MassHealth coverage ended on October 12, 2023. The Premium Billing representative stated that MassHealth sent the appellant a notice concerning this on September 28, 2023, which stated that the reason for the termination was due to the non-payment of the appellant's monthly premiums. (Ex. 1; Ex. 6, p. 6). MassHealth had determined the appellant was eligible for CommonHealth on March 10, 2023. (Ex. 6, pp. 7-9). In the notice MassHealth calculated that the appellant's monthly premium would be \$829.23 based on the household income, which was 1034.04% of the federal poverty level (FPL). (Ex. 6, pp. 7-8). The notice stated that MassHealth would begin billing the premium in April 2023. (Ex. 6, p. 8). The MassHealth representative stated that due to the Public Health Emergency, which did not end until April 1, 2023, MassHealth did not begin sending invoices to the appellant until June 2023. (Ex. 7, p. 2). MassHealth billed the appellant \$829.60 per month from June through September 2023. (Ex. 7, pp. 2-5).

The Premium Billing representative stated that the appellant's representative contacted MassHealth on November 8, 2023 to have the appellant's coverage cancelled. (Ex. 6, p. 4). The Premium Billing representative said that MassHealth had already cancelled the appellant's coverage by this time for non-payment of the premium. (Ex. 1; Ex. 6, p. 6). The Premium Billing representative stated that in any case the request to terminate coverage occurred outside the regulatory 60 day window to cancel coverage. The Premium Billing representative stated that the approval notice sent to the appellant is dated March 10, 2023. (Ex. 6, pp. 7-9). The Premium Billing representative pointed out that this notice specifically states that the member must pay the premium on time or the benefits would end. (Ex. 6, p. 8). The Premium Billing representative stated that the notice also informs the appellant that if he did not wish to pay the premium, he would need to inform MassHealth of this within 60 days. (Id.). The Premium Billing representative explained that as of the date MassHealth sent the notice, MassHealth would have actually accepted the cancellation request if it was made within 90 days of the date on the notice. The Premium Billing representative stated that the appellant did not request to cancel MassHealth coverage within 90 days of the March, 2023 notice.

The appellant's representative testified that the appellant, his son, is autistic and receives Social Security. In September 2021, the appellant was added to the appellant's representative's private insurance. The insurance company recommended that the appellant also apply for MassHealth because the appellant might be eligible for MassHealth as a recipient of Social Security. The appellant's representative asserted that the appellant received a couple of letters from

MassHealth in January 2022 or around that time stating that he was not eligible for MassHealth because the income of the household was too high. The appellant's representative stated that he looked online, which indicated that the application was withdrawn.

The appellant's representative asserted he was not aware that MassHealth approved the appellant for MassHealth in March 2023. The appellant's representative stated that the appellant began receiving bills for the monthly premium from MassHealth in June 2023. The appellant's representative stated he looked at the online application again and that this indicated that they had withdrawn the application. The appellant's representative stated he thought this was some sort of administrative issue or mistake that could be corrected. The appellant's representative testified that he tried calling MassHealth Customer Service in June and that he spent a long time on hold and was transferred around to multiple departments. The appellant's representative stated that he thought MassHealth would figure this out, but the appellant's representative stated that the premium bills kept coming, amounting to something like \$3,000.

The appellant's representative said he continued trying to call MassHealth and was told by customer service that since he had not paid the bills, MassHealth would terminate the appellant soon. The appellant's representative stated that customer service told him to call back in October. The appellant's representative stated he thought that this meant that they would take care of the problem. The appellant's representative stated he did call back and at this point spoke to someone from Premium Billing for the first time. The appellant's representative stated that the person he spoke to at Premium Billing was only concerned about whether the premium balances would be paid and there was no discussion of whether it could be waived.

The appellant's representative stated that they withdrew the 2021 application, and that the appellant did not need MassHealth. The appellant's representative stated that it was his assessment that somehow MassHealth did not treat the 2021 application as withdrawn. The appellant's representative said that he was told that the appellant had been active with MassHealth and that they were not billed the premium prior to June 2023 because of COVID. The appellant's representative stated that he told MassHealth that he wanted to withdraw. The appellant's representative said that the appellant never used MassHealth and was not getting services through MassHealth and asked that the outstanding premiums be waived.

## **Findings of Fact**

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

1. The appellant is under the age of 18 and has a household of four. (Testimony of the MassHealth representative; Ex. 6, p. 7).
2. The appellant's household income is \$260,000 per year from earnings. (Testimony of the MassHealth representative).

3. In January, 2022, the appellant received a denial notice from MassHealth based on income exceeding MassHealth limits. (Testimony of the appellant's representative).
4. A check of the MassHealth system at that time, showed the appellant's case was not active. (Testimony of the appellant's representative).
5. On March 10, 2023, MassHealth issued a notice stating that the appellant was approved for CommonHealth starting on December 28, 2021. (Ex. 6, p. 7).
  - a. MassHealth calculated that the appellant's monthly premium would be \$829.23. (Ex. 6, p. 7).
  - b. The notice stated that MassHealth would begin billing the premium in April 2023. (Ex. 6, p. 8).
  - c. The notice stated that the member must pay the premium on time so his benefits would not end. (Ex. 6, p. 8; Testimony of the Premium Billing representative).
  - d. The notice also stated that if the appellant did not wish to pay the premium, he would need to inform MassHealth of this within 60 days. (Ex. 6, p. 8; Testimony of the Premium Billing representative).
6. Due to the Public Health Emergency, which did not end until April 1, 2023, MassHealth did not begin invoicing the appellant until June 2023. (Testimony of the MassHealth representative; Ex. 7, p. 2).
7. The appellant did not receive MassHealth's March 10, 2023 notice. (Testimony of the appellant's representative).
8. The appellant received a bill for \$829.60 in June, 2023; the appellant's case was still showing as withdrawn in the MassHealth system at that time. (Testimony of the appellant's representative).
9. The appellant's representative called MassHealth Customer Service in June, 2023; he spent a long time on hold and was transferred around to multiple departments; the appellant's representative thought MassHealth would figure this out, but the premium bills kept coming.
10. The appellant's representative continued trying to call MassHealth and was told by customer service that since he had not paid the bills, MassHealth would terminate the appellant soon; customer service told him to call back in October; the appellant's representative thought that this meant that MassHealth would take care of the billing issue. (Testimony of the appellant's representative).

11. The appellant's representative called back on November 8, 2023 and spoke to someone from Premium Billing for the first time; Premium Billing was only concerned about whether the premium balances would be paid and there was no discussion of whether it could be waived. (Testimony of the appellant's representative).
12. MassHealth billed the appellant \$829.60 per month from June through September 2023. (Ex. 7, pp. 2-5).
13. MassHealth did not receive any premium payment from the appellant. (Testimony of the Premium Billing representative).
14. On September 28, 2023, MassHealth informed the appellant that his MassHealth coverage would end on October 12, 2023 because he had a past due premium balance. (Ex. 1; Ex. 6, p. 6).
15. The appellant has employer sponsored health insurance through his father and MassHealth would be supplemental coverage. (Testimony of the appellant's representative).
16. The appellant has never used the MassHealth CommonHealth coverage. (Testimony of the appellant's representative).

## **Analysis and Conclusions of Law**

The MassHealth agency may charge a monthly premium to disabled adults, disabled working adults, disabled young adults, and disabled children receiving CommonHealth who have household income that is above 150% of the federal poverty level (FPL). (130 CMR 504.005(I); 130 CMR 506.011)). MassHealth members who are assessed a premium are responsible for monthly premium payments beginning with the calendar month following the date of MassHealth's eligibility determination. (130 CMR 506.011(C)(2)). If a member wishes to voluntarily withdraw from receiving MassHealth coverage, it is the member's responsibility to notify MassHealth of their intention by telephone, in writing, or online. (130 CMR 506.011(H)). Coverage may continue through the end of the calendar month of withdrawal. (Id.) The member is responsible for the payment of all premiums up to and including the calendar month of withdrawal, unless the member contacts MassHealth by telephone, in writing, or online and requests a voluntary withdrawal within 90<sup>1</sup> calendar days from the date of the eligibility notice and premium notification, in which case MassHealth waives the premiums. (130 CMR 506.011(C)(5), (H)).

It appears MassHealth approved the appellant for CommonHealth during the Covid Public Health Emergency (PHE), but never billed the appellant any premiums. The appellant never received a

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<sup>1</sup> The regulation actually states 60 days but the Premium Billing representative testified that MassHealth is currently using 90 days, which is also what is stated in the notice under appeal. (See Ex. 1; Ex. 6, p. 6).

notice of approval, and based on a search of MassHealth's system in January, 2022, believed his MassHealth application was withdrawn. During the Covid PHE, MassHealth issued a CommonHealth approval notice dated March 10, 2023, with a CommonHealth premium calculation of \$829.23. MassHealth was not charging CommonHealth premiums during the Covid PHE and it is not clear if this notice was ever sent to the appellant. The appellant's representative testified that he did not receive such notice, and I find such testimony credible. Further, even if the appellant had received the March 10, 2023, it would have been unnecessary and fruitless to call within 90 (or 60 days as set forth in the regulation), since MassHealth was not billing a premium at that time. There is no evidence that MassHealth did a review or redetermination of the appellant's eligibility after the Covid PHE lifted on April 1, 2023. No new notice of eligibility or CommonHealth premium calculation issued after the Covid PHE lifted. MassHealth was required to review/redetermine the appellant's eligibility after termination of the Covid PHE period and issue a new notice, and it did not. MassHealth sent the appellant a bill for \$829.23 in June, 2023 and the appellant's representative immediately called MassHealth, but could not get through to the appropriate department. I credit the appellant's father's testimony that the June, 2023 bill for \$829.23 was the first notice he received of the appellant's CommonHealth coverage and resulting premium bill. Presumably such bill did not inform the appellant that he had 60 days to cancel his CommonHealth coverage, but the appellant's father did call MassHealth immediately upon receiving the bill.

I credit the appellant's father's testimony that he would have canceled the appellant's CommonHealth coverage, had he known such coverage was active and the bill valid. I credit the appellant's father's testimony that his call was re-routed to different departments with no one able to resolve his issue. The father provided compelling and credible testimony that the appellant was not expecting any further notices from MassHealth after the January 2022 denial notice because he did not submit additional information or applications to MassHealth after that date. The appellant's father demonstrated that, but for lack of notice, he would have cancelled the coverage and would not have had to pay any premiums. These facts, coupled with the fact that the record does not include any persuasive evidence that MassHealth sent the appropriate notice post Covid PHE, leads me to conclude that the appellant should not have been sent the premium bill in June, 2023 or at the very least, the appellant made every attempt to timely request that the CommonHealth coverage be terminated. (130 CMR 610.015(B)(2)(c)).

I further note that it is quite concerning that MassHealth never did a Premium Assistance determination as required by 130 CMR 505.004(K). The appellant is covered under his parent's employer sponsored health insurance. Such determination might have significantly reduced the appellant's CommonHealth premium bill.

The appeal is approved.

## Order for MassHealth

Waive all MassHealth CommonHealth premiums.

## 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

Maximus Premium Billing, Attn: Carmen Fabery, 1 Enterprise Drive, Suite 310, Quincy, MA 021691