

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2401992
<b>Decision Date:</b>	5/29/2024	<b>Hearing Date:</b>	03/19/2024
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	04/16/2024

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Hajar Bantour, Quincy MEC  
Roxana Noriega, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility—Under 65; Premium Assistance
<b>Decision Date:</b>	5/29/2024	<b>Hearing Date:</b>	03/19/2024
<b>MassHealth's Reps.:</b>	Hajar Bantour, Roxana Noriega	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South (Telephone)	<b>Aid Pending:</b>	Yes

### 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 January 24, 2024, MassHealth terminated the Appellant's MassHealth benefits because she did not enroll in the required employer-sponsored health insurance. 130 CMR 503.007(A) and Exhibit 1. The Appellant filed this appeal in a timely manner on February 7, 2024. 130 CMR 610.015(B) and Exhibit 2. Termination of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth Standard benefits, effective February 7, 2024.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 503.007, in determining that the Appellant was required to enroll in employer-sponsored health insurance to continue receiving MassHealth benefits?

### Summary of Evidence

The hearing was conducted by telephone. MassHealth was represented by a benefits eligibility specialist with the Quincy MassHealth Enrollment Center and a Premium Assistance representative. The Appellant verified her identity.

MassHealth testified as follows: the Appellant is an adult between the ages of 21-64 and is employed at [REDACTED]. The Premium Assistance representative testified that [REDACTED] offers health insurance to its employees that meets minimum creditable coverage requirements, and that it should cover the Appellant's pharmacy costs. The MassHealth representative explained that the Appellant's employer-sponsored insurance would be the Appellant's primary insurance and that MassHealth would be the Appellant's secondary insurance, and that the Appellant would qualify for premium assistance.

The record was held open until April 2, 2024, for the Appellant to submit proof of enrollment in her employer-sponsored insurance, and until April 16, 2024, for MassHealth to review and respond. Upon inquiry from the hearing officer, on May 23, 2024, the Premium Assistance representative responded that the Appellant had not submitted proof of enrollment. Exhibit 5.

## Findings of Fact

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

1. The Appellant is an adult between the ages of 21-64 years old, who previously was enrolled in MassHealth Standard. Testimony, Exhibit 4.
2. The employer-sponsored insurance available to the Appellant meets the basic benefit level to qualify for premium assistance. Testimony.

## Analysis and Conclusions of Law

The MassHealth regulations provide as follows:

### 503.007: Potential Sources of Health Care

The MassHealth agency is the payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law.

(A) Health Insurance. Every applicant and member must obtain and maintain available health insurance in accordance with 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*. Failure to do so may result in loss or denial of eligibility unless the applicant or member is

- (1) receiving MassHealth Standard or MassHealth CommonHealth; and
- (2) younger than 21 years old or pregnant.

(B) Use of Benefits. The MassHealth agency does not pay for any health care and related services that are available

- (1) through the member's health-insurance, if any; or
- (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services.

(C) Employer-sponsored Health Insurance. The MassHealth agency may enroll MassHealth members in available employer-sponsored health insurance if that insurance meets the criteria for payment of premium assistance under 130 CMR 506.012(B): *Criteria*.

130 CMR 503.007.

505.002: MassHealth Standard

(A) Overview.

- (1) 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F).

....

(M) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: *Premium Assistance Payments*. Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

(N) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Standard.

- (1) MassHealth may perform an investigation to determine if individuals receiving MassHealth Standard
  - (a) have health insurance that MassHealth may help pay for; or
  - (b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

(2) The individual receives MassHealth Standard while MassHealth investigates the insurance.

(a) Investigations for Individuals Who Are Enrolled in Health Insurance.

1. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Standard Premium Assistance Payments as described at 130 CMR 506.012: *Premium Assistance Payments*.

2. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is eligible for MassHealth Standard Direct Coverage.

3. Individuals described at 130 CMR 505.002(F)(1)(d) will not undergo an investigation.

(b) Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance.

1. If MassHealth determines the individual has access to employer-sponsored health insurance and the employer is contributing at least 50% of the premium cost and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Standard Premium Assistance Payments as described in 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 21 years old or is pregnant.

2. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual is eligible for MassHealth Standard Direct Coverage.

3. Individuals described at 130 CMR 505.002(F) and (G) will not undergo an Investigation.

130 CMR 505.002(A), (M), (N).

506.012: Premium Assistance Payments

(A) Coverage Types. Premium assistance payments are available to MassHealth members who are eligible for the following coverage types:

(1) MassHealth Standard, as described in 130 CMR 505.002: *MassHealth Standard*, with the exception of those individuals described in 130 CMR 505.002(F)(1)(d);

(2) MassHealth Standard for Kaileigh Mulligan, as described in 130 CMR 519.007: *Individuals Who Would Be Institutionalized*;

- (3) MassHealth CommonHealth, as described in 130 CMR 505.004: *MassHealth CommonHealth*;
- (4) MassHealth CarePlus, as described in 130 CMR 505.008: *MassHealth CarePlus*;
- (5) MassHealth Family Assistance for HIV-positive adults and HIV-positive young adults, as described in 130 CMR 505.005(E): *Eligibility Requirements for HIV-positive Individuals Who Are Citizens or Qualified Noncitizens with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 133 and Less than or Equal to 200% of the Federal Poverty Level*;
- (6) MassHealth Family Assistance for disabled adults whose Disabled Adult MassHealth household income is at or below 100% of the FPL and who are qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs, as described in 130 CMR 505.005(C): *Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level*;
- (7) MassHealth Family Assistance for children younger than 19 years old and young adults 19 through 20 years old whose household MAGI is at or below 150% of the FPL and who are nonqualified PRUCOLs, as described in 130 CMR 505.005(C): *Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level*; and
- (8) MassHealth Family Assistance for children younger than 19 years old whose household MAGI is between 150% and 300% of the FPL and who are citizens, protected noncitizens, qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs, as described in 130 CMR 505.005(C): *Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level*.

(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).

(C) Eligibility. Eligibility for MassHealth premium assistance is determined by the individual's coverage type and the type of private health insurance the individual has or has access to. MassHealth has three categories of health insurance for which it may provide premium assistance.

- (1) Employer-sponsored Insurance (ESI) 50% Plans are employer-sponsored health insurance plans to which the employer contributes at least 50% towards the monthly premium amount. MassHealth provides premium assistance for individuals with ESI 50% Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A).
- (2) Other Group Insurance Plans are employer-sponsored health insurance plans to which the employer contributes less than 50% towards the monthly premium amount, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, and Other Group Health Insurance. MassHealth provides premium assistance for individuals with Other Group Health Insurance Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A), except for individuals described in 130 CMR 506.012(A)(8).
- (3) Non-group unsubsidized Health Connector individual plans for children only, provided that such plans shall no longer be eligible for premium assistance as of January 1, 2019, and the last premium assistance payment for these plans shall be for coverage through December 31, 2018.
- (4) Members enrolled in any of the following types of health insurance coverage are not eligible for premium assistance payments from MassHealth:
  - (a) Medicare supplemental coverage, including Medigap and Medex coverage;
  - (b) Medicare Advantage coverage;
  - (c) Medicare Part D coverage; and
  - (d) Qualified Health Plans (QHP).
- (5) The following MassHealth members are not eligible for premium assistance payments as described in 130 CMR 506.012(C) from MassHealth:
  - (a) MassHealth members who have Medicare coverage. However, for those members who meet the eligibility requirements set forth in 130 CMR 505.002(O), Medicare Savings Program benefits may be available;
  - (b) all nondisabled nonqualified PRUCOL adults, as described in 130 CMR 505.005(D): *Eligibility Requirements for Adults and Young Adults 19 and 20 Years of Age Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 300% of the Federal Poverty Level*; and
  - (c) disabled nonqualified PRUCOL adults with MassHealth Disabled Adult household income above 100% of the FPL, as described in 130 CMR 505.005(F): *Eligibility Requirements for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal Poverty Level*.

130 CMR 506.012(A), (B), (C).

Here, the Appellant has not enrolled in available health insurance, specifically, employer-sponsored health insurance, as required by regulation. 130 CMR 505.002(M), 130 CMR 503.007, and Exhibit 5. Accordingly, MassHealth did not err in issuing the January 24, 2024, notice terminating the Appellant's coverage for failure to enroll in employer-sponsored health insurance. The appeal is denied.<sup>1</sup>

## **Order for MassHealth**

None. Rescind aid pending.

## **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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Emily Sabo  
Hearing Officer  
Board of Hearings

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

MassHealth Representative: Premium Assistance

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<sup>1</sup> No evidence was presented to suggest that the Appellant is pregnant such that 130 CMR 503.007(A)(2) applies.