

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402041
Decision Date:	4/29/2024	Hearing Date:	03/19/2024
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Anastasia Agnos, MEC; Roxana Noriega,
Premium Assistance Unit



*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:	4/29/2024	Hearing Date:	03/19/2024
MassHealth's Reps.:	Anastasia Agnos, MEC; Roxana Noriega, Premium Assistance Unit	Appellant's Rep.:	Pro se
Hearing Location:	Springfield MassHealth Enrollment Center	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

On 01/11/2024, MassHealth informed the appellant that it determined that her husband has health insurance available through his employer. This employer sponsored health insurance meets the rules for MassHealth Premium Assistance. The appellant's two children must enroll in this insurance by 3/11/2024 or their MassHealth benefits may end (Exhibit 1). On 02/09/2024, the appellant filed a timely appeal (130 CMR 610.015; Exhibit 2). Individual MassHealth agency determinations regarding scope and amount of assistance are valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth informed the appellant that her husband is required to enroll in employer-sponsored health insurance (ESHI) or the children may lose MassHealth coverage.

Issue

Is MassHealth correct to require the appellant's husband to enroll in the employer sponsored health insurance?

Summary of Evidence

The representative from the MassHealth Premium Assistance Unit testified telephonically and stated that MassHealth received information that the appellant husband's employer that it offers ESHI to the appellant and her family. This health insurance meets MassHealth's requirements of minimum creditable coverage. The appellant and her husband currently have health insurance through the Health Connector. The two children receive MassHealth Family Assistance benefits. MassHealth will pay 100% of the ESHI premiums every month and it will act as a secondary insurance for the children. The appellant and her husband have 60 days from the date of the notice to enroll in the ESHI, or the children's MassHealth benefits may terminate. Premium Assistance will issue a payment to the family for the full premium of the ESHI in the month prior to the effective date of coverage, for example, the family will receive a payment in March for April's coverage.

The appellant appeared at the fair hearing and testified virtually that she is currently satisfied with the health insurance she receives through the Health Connector and she would like to keep it. She stated that the Health Connector plan covers mental health services with a low co-payment. The ESHI does not cover mental health care as comprehensively and the appellant is concerned that she will not be able to afford the necessary medical care under the new insurance.

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, a woman between [REDACTED], lives with her husband and two children who are under [REDACTED].
2. The appellant's children are eligible for and receive MassHealth Family Assistance benefits.
3. The appellant and her husband are enrolled in a Health Connector plan.
4. Through an investigation of the appellant's employer, it was determined that the appellant's husband has access to ESHI.
5. On 01/11/2024, MassHealth informed the appellant that requires she or her husband enroll in the ESHI for the two children.

6. MassHealth will pay 100% of the ESHI premium for the family.
7. The appellant did not dispute that her husband has access to ESHI when he is employed.

Analysis and Conclusions of Law

MassHealth Regulations at 503.007 address potential sources of health care as follows:

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.

(Emphasis added.)

Regulations at 130 CMR 506.012 address criteria for premium assistance benefits as follows:

(B) 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.

Undisputed is that the appellant's two children are currently eligible for MassHealth Family

Assistance benefits. The appellant's husband has access to ESHI, which meets the criteria for payment of premium assistance benefits. MassHealth has requested that the appellant and her husband enroll in the ESHI for the family. MassHealth will pay 100% of the ESHI premiums. MassHealth will be a secondary insurer for the children. If the children are not enrolled in the ESHI by 03/11/2024, MassHealth may terminate the children's benefits.

The appellant and her husband are currently receiving health insurance through the Health Connector. The appellant stated she is concerned that the benefits available through the ESHI might not sufficiently cover her mental health expenses, which are affordably covered by the Health Connector. The appellant has not disputed that the ESHI meets the above criteria for Premium Assistance payments. MassHealth's determination that the ESHI meets the regulatory criteria is supported by the facts in the hearing record as well as the above regulations. Accordingly, this 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104