

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied in part; Dismissed in part	Appeal Number:	2402159
Decision Date:	03/15/2024	Hearing Date:	03/12/2024
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Christine Richelson, 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:	Denied in part; Dismissed in part	Issue:	Eligibility; Under 65; Income; Gap in Coverage
Decision Date:	03/15/2024	Hearing Date:	03/12/2024
MassHealth's Rep.:	Christine Richelson	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury 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

Through a notice dated January 26, 2024, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that her income was too high to qualify for MassHealth benefits (Exhibit 1). The appellant filed this appeal in a timely manner on February 12, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for benefits because her income exceeded the allowable limits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth benefits because she is over the allowable income limit.

Summary of Evidence

The appellant appeared at hearing in person at the Tewksbury MassHealth Enrollment Center and the MassHealth representative appeared via videoconference. The MassHealth representative testified as follows: on December 8, 2023, the appellant completed an eligibility renewal application. Her reported income was over the income limit, but the case was pending proof of that income. On December 12, 2023, MassHealth received pay stubs from the appellant but they were not acceptable because they did not show the frequency of payment and the employer was not clear. On January 26, 2024, MassHealth received updated proof of income from the appellant and issued the notice under appeal which informed the appellant she was over the allowable income limit for MassHealth benefits, as well as the Health Safety Net. This is the notice under appeal. The appellant has a household size of one and gross annual income of \$87,734 with a Modified Adjusted Gross Income (MAGI) Federal Poverty Level (FPL) of 439.90%. To qualify for MassHealth benefits, the appellant must be at or below 133% of the FPL, which for a household of one is \$20,040 gross annually.

As background, the MassHealth representative also testified that on August 14, 2023, MassHealth sent the appellant a request for an annual eligibility renewal which was due September 28, 2023. MassHealth did not receive the renewal from the appellant and on October 25, 2023, MassHealth issued a termination notice informing the appellant that her benefits would terminate on November 30, 2023 for failure to complete the annual eligibility renewal. Her MassHealth Standard benefits were terminated on November 30, 2023. Copies of the August 14 and October 25 notices showed the appellant's correct address.

The appellant did not dispute the January 26, 2024 denial notice. She confirmed that the income reported, which is based on her earnings from the two jobs she works for her town, was accurate and she agreed that she was over income to qualify; however, she testified that she never received the August 14 renewal notice or the October 25 termination notice. If she had received a termination notice, she never would have ignored it and let her coverage lapse. She always goes through her bills and mail timely. She has been on MassHealth for six years and completed her renewals without any issue. She did not know she was without coverage until she had a medical emergency and went to the hospital in [REDACTED]. The hospital told her she had no insurance. From the hospital, she called what she thought was MassHealth to sign up for her insurance. She was told she was all set and the coverage would backdate 30 days. At a follow-up doctor's appointment, she was told she still did not have insurance. It was at that point that she discovered she had signed up for a repricing plan, not MassHealth. She has never needed significant medical care like she did in [REDACTED] but now she has over \$15,000 in medical bills that she cannot afford to pay. She emphasized that she never saw a termination notice, and would not have gone to the emergency room if she knew she did not have medical insurance.

The MassHealth representative looked to see if there was any way to apply retroactive coverage, but the appellant does not qualify for MassHealth benefits now. She can only back date coverage for a member who completes the renewal application within 90 days of the termination *and* continues to qualify for MassHealth benefits.

After hearing, this hearing officer followed up with the MassHealth representative via email to learn how MassHealth can tell that a notice was actually mailed out and not just generated. She responded with a screenshot showing that the three notices discussed at hearing (August 14, 2023, October 25, 2023, and January 26, 2024) were printed. She explained that if the notices were printed, it means they were mailed out. MassHealth did not receive any returned mail related to the appellant.

Findings of Fact

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

1. On December 8, 2024, the appellant, who is under the age of 65 with a household size of one, completed an eligibility renewal application (Testimony and Exhibit 4).
2. Her reported income was over the income limit, but MassHealth did not receive acceptable proof of income until January 26, 2024 (Testimony).
3. On January 26, 2024, MassHealth denied the appellant MassHealth benefits because she was over the allowable income limit (Testimony and Exhibit 1).
4. On February 12, 2024, the appellant timely appealed the January 26, 2024 notice, but it was apparent at hearing that she did not dispute that notice and instead had issue with the November 30, 2023 termination of benefits (Testimony and Exhibits 2 and 6).
5. The appellant's gross annual income is \$87,734 with a MAGI FPL of 439.90% (Testimony and Exhibit 7).
6. The appellant did not dispute her income which was based on her 2023 earnings from the two jobs she worked for her town (Testimony).
7. To qualify for MassHealth benefits, an applicant must be at or below 133% of the FPL, which for a household of one is \$20,040 gross annually (Testimony).
8. On August 14, 2023, MassHealth issued a request for annual eligibility renewal with a due date of September 28, 2023 (Testimony and Exhibit 5).

9. MassHealth did not receive the renewal within the requested time and on October 25, 2023, issued a termination notice informing the appellant that her benefits would end on November 30, 2023 for failure to complete the renewal (Testimony and Exhibit 6).
10. Copies of the August 14, 2023, October 25, 2023m and January 26, 2024 notices show the appellant's correct address and MassHealth records show the notices were all printed, indicating they were mailed (Testimony and Exhibits 1, 5, 6, and 7).
11. The appellant was unaware that her MassHealth coverage was terminated and due to unexpected medical care, she accumulated over \$15,000 in medical expenses in [REDACTED] (Testimony).

Analysis and Conclusions of Law

While the appellant appealed the January 26, 2024 notice denying her MassHealth benefits for being over the income limit, the appellant did not disagree with that determination.

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold.

The MassHealth coverage types are set forth at 130 CMR 505.001(A) as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,¹ disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) CommonHealth for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) Family Assistance for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) Small Business Employee Premium Assistance for adults or young adults who
 - (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;

¹ "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

- (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
- (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) Limited for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) Senior Buy-in and Buy-in for certain Medicare beneficiaries

Categorically, the appellant is eligible for CarePlus; however, under 130 CMR 505.008(A)(2)(c), the income limit for CarePlus coverage is 133% of the FPL. For a household of one, that limit was \$19,392 gross per year in 2023 and \$20,040 gross per year in 2024. The appellant's most recently verified gross annual income is \$87,734, or 439.90% of the FPL. Based on this figure, she is over the income limit for MassHealth CarePlus benefits. For these reasons, the MassHealth determination as to the January 26, 2024 notice is correct and the appeal is denied.²

The main issue here, however, is the October 25, 2023 termination notice and the November 30, 2023 termination that ensued as a result. To address the termination, it is necessary to establish jurisdiction over MassHealth's October 25, 2023 termination notice. Under 130 CMR 610.015(B)(1), the Board of Hearings must receive a request for a fair hearing within 60 days after an applicant or member receives written notice from MassHealth of the intended action. It is presumed that the notice was received on the fifth day after mailing. See 130 CMR 610.015(B)(1). Additionally, under 130 CMR 610.015(B)(2), unless waived by the Director or his or her designee, the Board of Hearings must receive a request for a fair hearing within 120 days from the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action.

Here, the appellant alleges she never received the October 25, 2023. While the appellant's testimony was credible, the burden is on the appellant to show that MassHealth erred in its action and the appellant has not done so here. MassHealth provided copies of the August 14, 2023 renewal notice and the October 25, 2023 termination notice addressed to the appellant at the correct address. Additionally, MassHealth provided screenshots showing that both notices, as well as the January 26, 2024 notice received and appealed by the appellant, were printed, indicating they were mailed. MassHealth did not receive any returned mail. As such, the presumption is that the notices were mailed and received on the fifth day after mailing, and the October 25 termination notice was not appealed within the 60 days (December 29, 2023) required by 130 CMR 610.015(B)(1). For that reason, the appeal as to the October 25, 2023 termination notice was not timely and the appeal is dismissed.

² The appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765).

Even if I determined that the October 25, 2023 notice was not received and I took jurisdiction over the November 30, 2023 termination under 130 CMR 610(B)(2), the result, unfortunately, would still be a denial. Pursuant to 130 CMR 516.006(B), MassHealth benefits terminate or downgrade no sooner than 14 days from the date of the termination or downgrade notice. The MassHealth action in the October 25 notice was correct. The appellant did not complete her renewal within the allowed time and coverage would have terminated no sooner than fourteen days from the date of the termination notice. For some reason, and to the appellant's benefit, the termination date (November 30) was actually 37 days after the notice date (October 25). Additionally, the appellant completed the renewal on December 8, 2023 (and submitted the final verifications on January 26, 2024), which was within 90 days of the termination date. Pursuant to 130 CMR 520.007(C)(2), if she was still eligible for MassHealth benefits, coverage would have been reinstated retroactively to the termination date, eliminating her gap in coverage, and covering the medical bills accrued during that time; however, as she was correctly determined ineligible for MassHealth benefits due to being over income, there is no way to retroactively reinstate her coverage. At no time during the period in question was the appellant financially eligible for MassHealth benefits.

For these reasons, the appeal is denied in part and dismissed in part.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957