

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402185
Decision Date:	4/8/2024	Hearing Date:	03/27/2024
Hearing Officer:	Thomas J. Goode	Record Open to:	03/29/2024

Appearance for Appellant:
Pro se (Telephonically)

Appearances for MassHealth:
Jessica Ramirez, Tewksbury MEC;
Roxana Noriega, Premium Assistance Unit
(Telephonically)



*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:	Eligibility; Under 65
Decision Date:	4/8/2024	Hearing Date:	03/27/2024
MassHealth's Reps.:	Jessica Ramirez, Roxana Noriega	Appellant's Rep.:	Pro se
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

On January 4, 2024, MassHealth informed Appellant that it would terminate MassHealth benefits for her two minor children effective March 4, 2024 because she did not enroll in employer sponsored health insurance (ESI) (130 CMR 503.007 and Exhibit 1). Appellant appealed this matter in a timely manner on February 12, 2024 (130 CMR 610.015 and Exhibit 2). Termination of MassHealth benefits is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant that it would terminate MassHealth benefits for her two minor children effective March 4, 2024 because she did not enroll in employer sponsored health insurance.

Issue

The issue on appeal is whether MassHealth was correct in issuing notice that it would terminate MassHealth benefits for Appellant's two children effective March 4, 2024 because Appellant did not enroll in employer sponsored health insurance.

Summary of Evidence

The MassHealth representative testified that a notice issued on January 4, 2024 informing Appellant that MassHealth coverage would terminate for Appellant's two minor children on March 4, 2024 if Appellant did not enroll in employer-sponsored insurance (ESI) within 60 days (Exhibit 1). MassHealth testified that Appellant has ESI available to her and is eligible for Premium Assistance to pay the premium. Appellant is currently enrolled in a Connector Plan Type 2B, and her two minor children both under 18 years of age are enrolled in Family Assistance with a \$12 monthly premium per child. MassHealth testified that Appellant is required to enroll her children in available ESI; however, Appellant expressed that she does not intend to enroll in ESI due to high deductibles. Premium Assistance testified that Appellant's ESI meets the Basic Benefit Level.

Appellant testified that her ESI has a \$3,500 family deductible and a \$1,750 individual deductible which she cannot afford to pay regardless of whether MassHealth pays the premium for the plan. Appellant added that she has medical conditions that would cause her to exceed the deductible every year. Other plans available to her have high co-payments instead of deductibles that are also not affordable. She testified that her ex-husband was unable to enroll the children in his ESI because plans available to him are not in an open enrollment period, and the MassHealth notices were not considered a qualifying event to enroll the children. Appellant added that she would address any issues affecting her Connector Plan to the Health Connector; however, she wants her children to remain on Family Assistance.

During a record open period, MassHealth concluded that the closure could not be removed unless Appellant enrolled in ESI or the Premium Assistance Unit removes the closing (Exhibit 5). The Premium Assistance Unit responded that if Appellant chooses not to enroll in ESI, her children will remain in their current MassHealth aid category; however, the AR73 closure code could not be removed (Id.).

Findings of Fact

Based on a preponderance of the evidence, I find:

1. A notice issued on January 4, 2024 informing Appellant that MassHealth coverage would terminate for Appellant's two minor children on March 4, 2024 if Appellant did not enroll in

employer-sponsored insurance (ESI) within 60 days.

2. Appellant has ESI available to her and is eligible for Premium Assistance to pay the premium. Appellant and her 2 minor children are not enrolled in ESI.
3. Appellant is currently enrolled in a Connector Plan Type 2B, and her two minor children, both under 18 years of age, are enrolled in Family Assistance with a \$12 premium per child.

Analysis and Conclusions of Law

MassHealth regulations provide an overview of Family Assistance eligibility at 130 CMR 505.005, and at 505.005(A)(7) direct that persons eligible for MassHealth Family Assistance must obtain and maintain all available health insurance as described in 130 CMR 503.007: *Potential Sources of Health Care*.

MassHealth Regulations at 130 CMR 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 of age or pregnant.**

(Emphasis added)

Appellant is required to obtain and maintain health insurance and has ESI available to her through her employer. Review of the applicable regulation at hearing centered on continuing coverage for Appellant's children who are under 21 years of age in the event Appellant does not enroll her children in her ESI which meets rules for Premium Assistance. A close review of the governing regulation reveals that the exemption for MassHealth members under 21 years of age applies only to members enrolled in MassHealth Standard or CommonHealth. Appellant's children are enrolled in Family Assistance; therefore, the exemption does not apply, and Appellant was correctly notified on January 4, 2024 that she must enroll in ESI within 60 days.¹ Accordingly, the appeal is

¹ See 130 CMR 505.005(B)(2). Investigations for Individuals Who Have Potential Access to Employer-sponsored

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Appeals Coordinator, Sylvia Tiar, Tewksbury MEC
Premium Assistance Unit

Health Insurance (ESI). a. If MassHealth determines the individual has access to employer-sponsored health insurance, 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 that meets the criteria described in 130 CMR 506.012: *Premium Assistance Payments*. **MassHealth allows the individual up to 60 days to enroll in this coverage.** Once enrolled in this health insurance plan, MassHealth provides MassHealth Family Assistance Premium Assistance Payments as described in 130 CMR 450.105(G)(1): *Premium Assistance* and 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. b. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth Family Assistance. **(emphasis added)**

See also 130 CMR 450.105(G)(2): Payment of Copayments, Coinsurance, and Deductibles for Certain Children who Receive Premium Assistance. (a) For children who meet the requirements of 130 CMR 505.005(B): *Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household greater than 150 and less than or equal to 300% of the Federal Poverty Level*, the MassHealth agency pays providers directly, or reimburses the member, for 1. copayments, coinsurance, and deductibles relating to well-baby and well-child care; and 2. copayments, coinsurance, and deductibles for services covered under the member's employer-sponsored health insurance once the member's family has incurred and paid copayments, coinsurance, and deductibles for eligible members that equal or exceed 5% of the family group's annual gross income. (b) Providers should check the Eligibility Verification System (EVS) to determine whether the MassHealth agency will pay a provider directly for a copayment, coinsurance, or deductible for a specific MassHealth Family Assistance member.