

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Approved | Appeal Number: | 2403163 |
| Decision Date: | 5/29/2024 | Hearing Date: | 04/05/2024 |
| Hearing Officer: | Scott Bernard | | |

Appearances for Appellant:

 *via telephone*
via telephone


Appearances for MassHealth:

Elizabeth Nickoson (Taunton MEC) *via telephone*
Karishma Raja (Premium Billing Unit) *via telephone*



*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

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| Appeal Decision: | Approved | Issue: | Tax Intercept |
| Decision Date: | 5/29/2024 | Hearing Date: | 04/05/2024 |
| MassHealth's Reps.: | Elizabeth Nickoson; Karishma Raja | Appellant's Reps.: |  |
| Hearing Location: | Taunton 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 February 22, 2024, the Department of Revenue (DOR) informed the appellants that \$1,799.00 of their state tax refund would be transferred to MassHealth as a result of state tax refund intercept. (See 130 CMR 501.012 and Exhibit (Ex.) 1, p. 1). The appellants filed this appeal in a timely manner on February 29, 2024. (See 130 CMR 610.015(B) and Ex. 1, p. 2). An agency action to recover payments for unpaid premiums through tax intercept is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth, through DOR, intercepted the appellant's tax refund.

Issue

Whether MassHealth correctly intercepted the appellant's state tax refund.

Summary of Evidence

The telephonic hearing was attended by an eligibility worker from the Taunton MassHealth

Enrollment Center (MEC), a representative from the Premium Billing Unit, and the appellants (husband and wife).

The MassHealth representative testified to the following. The appellants are joint tax filers living in a household of four with their two children, who they claim as dependents. (Testimony). The household's income consists of the wife's earned income of \$4,389.33; and the husband's earned income of \$18,208. (Testimony). The gross monthly income (GMI) for the household totals \$22,597.42. (Testimony). This placed the household at 972.19% of the federal poverty limit (FPL). (Testimony). Currently no one in the household is receiving MassHealth benefits. (Testimony; Ex. 2).

The appellant's son was the only member of the household who had applied for coverage. (Testimony). The appellants applied for coverage for their son on July 19, 2022, during the Covid Public Health Emergency (PHE). (Testimony; Ex. 3). On August 31, 2022, Disability Evaluation Services (DES) issued a determination that the appellant's son was disabled. (Testimony). MassHealth then notified the appellants in writing on the same date that their son had been approved for CommonHealth coverage starting on August 21, 2022. (Testimony; Ex. 3; Ex. 5, pp. 7-9). The approval notice also stated that the appellants would be required to pay a monthly premium of \$707.20 starting in September 2022. (Testimony; Ex. 5, pp. 7-9). The appellants were not charged a premium in September, 2022 or any month after until June, 2023. (Testimony). By notice dated October 6, 2023, MassHealth notified the appellants that it was terminating their son's coverage as of October 20, 2023 for non-payment of the premiums. (Testimony; Ex. 5, p. 6).

The Premium Billing representative explained that due to COVID protections, the Premium Billing Unit did not send the household a bill before June 2023. (Testimony). Premium Billing sent the appellants the first bill for \$707.20 in June, 2023 and continued to bill through September 2023. (Testimony; Ex. 5, p. 10). MassHealth never received any premium payments from the appellants. (Testimony). MassHealth therefore intercepted the appellants' tax return because they had past due premiums. (Testimony). MassHealth intercepted \$1,784 of the appellants' state refund in February 2024. (Testimony; Ex. 1, p. 1). On February 28, 2024, MassHealth received an additional payment of \$1,044.80 via credit card and the appellants no longer carry a balance. (Testimony; Ex. 5, p. 10).

The MassHealth representative testified that in addition to sending the approval notice in August 2022, MassHealth sent a subsequent notice on April 14, 2023, stating the Public Health Emergency (PHE) would end on May 31, 2023 and that premiums would therefore be billed after that date. (Testimony).

The appellant husband expressed profound confusion and frustration regarding the situation. (Testimony). He stated that his son was born with a heart defect and when he turned one year old, he required surgery to repair the defect. (Testimony). The appellant husband remembered that while his son was in the hospital awaiting surgery in the summer of 2022, a clerk at the hospital suggested that he and his wife apply for MassHealth to help cover any ongoing costs if their son

had complications from the surgery. (Testimony). The appellant husband did not remember any follow up occurring after this one conversation. (Testimony). He also did not remember signing anything specifically authorizing the hospital clerk to apply for MassHealth for their son, and certainly the appellants did not apply for MassHealth themselves. (Testimony). The first time the appellants knew that their son had been determined eligible for MassHealth or that they owed premiums was when they received the tax intercept notice in February 2024. (Testimony; Ex. 1).

After an inquiry from the hearing officer, the MassHealth representative testified that MassHealth sent the August 31, 2022 approval notice, the April 14, 2023 notice saying the PHE would end as of May 31, 2023, the premium bills, and the October 6, 2023 notice stating that the appellant's son was being terminated for non-payment of premiums to one particular address. (Testimony; Ex. 5, pp. 6, 7-9). The appellant husband stated that this was an address they had moved from around the time of their son's surgery and that the address was no longer correct. (Testimony). The tax intercept notice, and the Board of Hearings' scheduling notice were both sent to an address the appellant husband confirmed was their current address. (Testimony; Ex. 1; Ex. 4). The appellant husband testified that they had lived at their present address for over one and half years. (Testimony).

The appellant husband adamantly asserted that neither he nor his wife agreed to apply for MassHealth for their son. (Testimony). The appellants stated that they were not aware that someone had applied for MassHealth on their behalf. (Testimony). Again, at that time things were chaotic because of their son's heart condition. (Testimony). Thankfully, they stated, their son's heart surgery was successful, and he has not experienced complications. (Testimony). The appellants have always carried him on their private insurance, and never used MassHealth because they were not even aware he had been found eligible for MassHealth. (Testimony). The appellants described feeling blindsided by the unexpected loss of their tax refund. (Testimony). The appellant's husband expressed concern over the lack of transparency and communication from MassHealth and was angry at the hospital clerk for applying for MassHealth without their permission. (Testimony).

Findings of Fact

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

1. The appellants are joint tax filers living in a household of four with their two children, who they claim as dependents. (Testimony).
2. Currently no one in the household is receiving MassHealth benefits. (Testimony; Ex. 2).
3. The appellant's son was the only member who had applied for coverage. (Testimony).
4. The appellants' son was born with a heart defect and when he turned one year old, required surgery to repair the defect. (Testimony).

5. During the period prior to their son's heart surgery, the appellants had been told by a clerk working at the hospital that they should apply for MassHealth in case they needed the extra coverage. (Testimony).
6. The appellants did not remember authorizing the clerk to apply for MassHealth on their son's behalf nor did they submit the application themselves. (Testimony).
7. The appellants, or someone acting on their behalf, applied for coverage for their son on July 19, 2022 around the time of his heart surgery. (Testimony; Ex. 3).
8. On August 31, 2022, DES issued a determination that the appellant's son was disabled, which was posted in MassHealth's computer systems. (Testimony).
9. MassHealth then notified the appellants in writing on the same date that their son had been approved for CommonHealth coverage starting on August 21, 2022. (Testimony; Ex. 3; Ex. 5, pp. 7-9).
10. The approval notice also stated that the appellants would be required to pay a monthly premium of \$707.20 starting in September 2022. (Testimony; Ex. 5, pp. 7-9).
11. Due to COVID protections, the Premium Billing Unit did not send the appellants premium bills until June 2023. (Testimony).
12. On April 14, 2023 MassHealth sent the appellants a notice indicating the PHE would end on May 31, 2023 and that premiums would therefore be billed after that date. (Testimony).
13. Premium billing resumed in June, with bills sent to the appellants from June through September 2023, at \$707.20 monthly. (Testimony; Ex. 5, p. 10).
14. MassHealth never received any premium payments from the appellants. (Testimony).
15. On October 6, 2023, MassHealth notified the appellants that it was terminating their son's coverage on October 20, 2023 for non-payment of the premiums. (Testimony; Ex. 5, p. 6).
16. MassHealth intercepted the appellants' tax return because they had past due premiums. (Testimony).
17. MassHealth was able to intercept \$1,784 of the appellants' state refund. (Testimony; Ex. 1, p. 1).
18. On February 28, 2024, MassHealth received an additional payment of \$1,044.80 via credit card and the appellants no longer carry a balance. (Testimony; Ex. 5, p. 10).
19. MassHealth sent the August 31, 2022 approval notice, the April 14, 2023 notice saying the

PHE would end as of May 31, 2023, the premium bills, and the October 6, 2023 notice stating that the appellant's son was being terminated for non-payment of premiums to an address from which the appellant's moved shortly after their son's heart surgery; the appellants did not receive any of these notices. (Testimony; Ex. 5, pp. 6, 7-9).

20. DOR and the Board of Hearings both sent their notices to the appellants' current address. (Testimony; Ex. 1; Ex. 4).

Analysis and Conclusions of Law

The record indicates that MassHealth approved the appellants' son for CommonHealth in August 2022, with a monthly premium set at \$707.20. During the ongoing Public Health Emergency (PHE), MassHealth did not bill MassHealth members. In April 2023, MassHealth sent a notice stating that the PHE would conclude on May 31, 2023, and premium billing would commence in June 2023. From June to September 2023, MassHealth billed the appellants \$707.20 per month, but did not receive any payments. Consequently, on October 6, 2023, MassHealth sent a notice of termination of CommonHealth coverage, effective October 20, 2023, due to non-payment of premiums. The appellant has employer sponsored health insurance and thus MassHealth should have made a determination of eligibility for Premium Assistance, which would have reduced the CommonHealth premium. MassHealth did not do this. MassHealth is supposed to terminate coverage within 60 days if a member fails to pay a premium bill¹. That was not done in this case.

The appellants were unaware of MassHealth's approval of their son for CommonHealth in August 2022 or the subsequent premium billing, until they received the tax intercept notice. All MassHealth notices from August 2022 to October 2023 were sent to a previous address, as the appellants had relocated after their son's surgery. The tax intercept notice was sent to their present address, which is the reason they responded. They denied applying for MassHealth on their son's behalf and were unaware of authorizing anyone to do so. However, they recalled a hospital clerk mentioning MassHealth during their son's surgery period.

It seems unlikely that the appellants would choose to ignore MassHealth notices sent to a certain address for over a year, while only responding to the one notice sent to another address. To this hearing officer, at least, the appellants have credibly demonstrated that it was more likely than not that they were not aware of their son's CommonHealth approval nor that MassHealth was sending them premium bills. The appellants had private health insurance and would not want to pay an additional \$707.20 a month for unnecessary coverage. I determine that had the appellants been made aware of the MassHealth coverage and the \$707.20 premium bill, they would have contacted MassHealth to cancel it. The appellants were not aware of such coverage and never

¹ (D) Delinquent Premium Payments. (1) Termination for Delinquent Premium Payments. If the MassHealth agency has billed a member for a premium payment, and the member does not pay the entire amount billed within 60 days of the date on the bill, the member's eligibility for benefits is terminated. The member will be sent a notice of termination before the date of termination. (130 CMR 506.011(D)(1)).

used it. The appellants are not responsible for premiums billed for June, July, August, and September, 2023.

For the above stated reasons, the appeal is APPROVED.

Order for MassHealth

Adjust any remaining past-due premium to \$0 and reimburse the total of the appellants' intercepted tax return as well as the amount that the appellants paid separately on February 28, 2024.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

Maximus Premium Billing, Attn: Karishma Raja, 1 Enterprise Drive, Suite 310, Quincy, MA 02169