

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403562
Decision Date:	4/23/2024	Hearing Date:	04/17/2024
Hearing Officer:	Radha Tilva		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Christine L. Richelson (Tewksbury MEC rep.)

Interpreter:



*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 - start date
Decision Date:	4/23/2024	Hearing Date:	04/17/2024
MassHealth's Rep.:	Christine L. Richelson	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MEC (telephonic)	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 27, 2024, MassHealth determined that appellant was eligible for MassHealth Limited and Health Safety Net effective February 12, 2024 (Exhibit 1). The appellant filed this appeal in a timely manner on March 7, 2024 disputing the MassHealth start date (see 130 CMR 610.015(B) and Exhibit 2). Dispute as to start date is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved appellant for MassHealth Limited and Health Safety net effective February 12, 2024.

Issue

The appeal issue is whether MassHealth was correct in determining that the eligibility start date of appellant's coverage is February 12, 2024.

Summary of Evidence

The MassHealth representative appeared by telephone and testified to the following: appellant was sent a request for information on September 8, 2023 requesting proof of residency. The proof of residency request was sent to appellant's current address and was due by December 7, 2023. As MassHealth did not receive the proof of residency it issued a termination notice on December 14, 2023 (Exhibit 5). The appellant did not appeal that notice. Eventually MassHealth received the residency verification on February 22, 2024 and processed it on February 27, 2024. The appellant was given 10 days retroactive coverage from the date the coverage was received. The notice on appeal was issued on February 27, 2024 stating that appellant would have coverage for Health Safety Net and MassHealth Limited effective February 12, 2024. The MassHealth representative did not have any notification of returned mail in the system.

The appellant appeared by telephone and testified that she got the September 8, 2023 notice and faxed the proof of residency on September 15, 2023. She did not receive a response from MassHealth. She also did not retain a receipt or fax confirmation for the fax that she sent to MassHealth from a grocery store. On February 2, 2024 she got sick and went to see a doctor. The doctor told her she did not have coverage. She ended up being hospitalized and had a bill of over \$5,000.00 from the hospital. She called MassHealth to find out why her coverage was terminated and she was told that she had to send proof of her residency, which she did on February 22, 2024. The appellant testified that she did not get the December 2023 termination notice and did not know that she was without coverage until February 2024 when she saw her doctor. The appellant is seeking retroactive coverage so that MassHealth can help cover her hospital bill.

Findings of Fact

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

1. Appellant was sent a request for information on September 8, 2023 requesting proof of residency.
2. The proof of residency request was sent to appellant's current address and was due by December 7, 2023.
3. As MassHealth did not receive the proof of residency it issued a termination notice on December 14, 2023.
4. No appeal was filed for that termination notice.
5. MassHealth has no record of returned mail of the termination notice.
6. Appellant ended up with a hospital bill of over \$5,000.00 in February.
7. She called MassHealth to find out why her coverage was terminated and she was told that

she had to send proof of her residency which she did on February 22, 2024.

8. MassHealth sent an approval notice on February 27, 2024 for MassHealth Limited and Health Safety Net coverage effective February 12, 2024.
9. The appellant appealed that notice and is seeking retroactive coverage to help cover the hospital bill.

Analysis and Conclusions of Law

The request for a fair hearing was received by the Board of Hearings on March 7, 2024 (Exhibit 2). Jurisdictional limitations of a request for a fair hearing are governed by 130 CMR 610.015(B), which states in relevant part the following:

(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

(1) **60 days after an applicant or member receives written notice from the MassHealth agency of the intended action.** Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;

(2) unless waived by the BOH Director or his or her designee, 120 days from

(a) the date of application when the MassHealth agency fails to act on an application;

(b) the date of request for service when the MassHealth agency fails to act on such request;

(c) **the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action;** or

(d) the date of the alleged coercive or otherwise improper conduct, but up to one year from the date of the conduct if the appellant files an affidavit with the BOH Director stating the following, and can establish the same at a hearing (Failure to substantiate the allegation either before or at the hearing will be grounds for dismissal.):

1. he or she did not know of the right to appeal, and reasonably believed that the problem was being resolved administratively or he or she was justifiably unaware of the conduct in question; and
2. the appeal was made in good faith.

(Emphasis added).

At hearing it became clear that the appellant was trying to challenge the earlier December 14,

2023 termination notice, as she was trying to get an earlier eligibility start date. The regulation at 130 CMR 610.015(B)(1), however, indicates that appellant would have been expected to file an appeal or challenge to that notice by no later than February 12, 2024. Moreover, while 130 CMR 610.015(B)(2) suggests that appellant may have an additional 120 days, where no termination notice is sent by MassHealth, the evidence does not support that a termination notice was not sent. Appellant claims that she never received the December 14, 2023 termination notice, however, her testimony is not credible. There is no record of returned mail or an incorrect address on the December 14, 2023 notice (Exhibit 5).

The notice on appeal is dated February 27, 2024 and states that appellant is approved for MassHealth Limited and Health Safety Net on February 12, 2024. As the notice at issue here is based off appellant's February 22, 2024 submission of her residency verification, pursuant to 130 CMR 502.006(A)(2)(b), the start date of coverage is determined upon receipt of the requested verifications and coverage begins ten days prior to the date of application. MassHealth is therefore correct in approving appellant for MassHealth Limited and Health Safety Net effective February 12, 2024. For these reasons 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.

Radha Tilva
Hearing Officer
Board of Hearings

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