

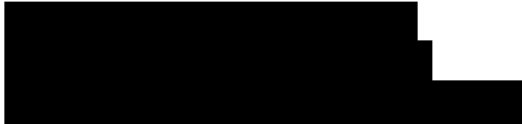
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                   |                        |                   |
|-------------------------|-------------------|------------------------|-------------------|
| <b>Appeal Decision:</b> | Dismissed; Denied | <b>Appeal Numbers:</b> | 2403697 & 2403704 |
| <b>Decision Date:</b>   | 6/3/2024          | <b>Hearing Date:</b>   | 04/10/2024        |
| <b>Hearing Officer:</b> | Christopher Jones |                        |                   |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Ryan Bond - Tewksbury HCR

**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

|                           |  |                          |                                       |
|---------------------------|--|--------------------------|---------------------------------------|
| <b>Appeal Decision:</b>   | Dismissed; Denied                            | <b>Issue:</b>            | Community;<br>Eligibility; Start Date |
| <b>Decision Date:</b>     | 6/3/2024                                     | <b>Hearing Date:</b>     | 04/10/2024                            |
| <b>MassHealth's Rep.:</b> | Ryan Bond                                    | <b>Appellant's Rep.:</b> | Pro se; Family                        |
| <b>Hearing Location:</b>  | Tewksbury<br>MassHealth<br>Enrollment Center | <b>Aid Pending:</b>      | No                                    |

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through notices dated February 20, 2024, MassHealth denied the appellants' application for MassHealth benefits their income is too high for MassHealth coverage. (Exhibits 1 and 2; 130 CMR 506.007; 502.003.) The appellant filed this appeal in a timely manner on March 11, 2024. (Exhibit 4; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal.<sup>1</sup> (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth terminated the appellants' MassHealth CarePlus and Limited coverage, and then denied their eligibility following their renewal application, approving them for coverage through the Health Connector.

### Issue

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 502.007, in

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<sup>1</sup> These appeals were scheduled separately, but immediately after one another. The parties requested that the appeals be consolidated into one decision.

terminating the appellants' eligibility for failing to complete a renewal application, and whether MassHealth is correct, pursuant to 130 CMR 505.000 and 506.000, in determining that the appellants are not financially eligible for MassHealth coverage.

## Summary of Evidence

The appellants are a husband and wife who are between the ages of [REDACTED]. The appellant-husband was covered by the CarePlus benefit, and the appellant-wife was covered by Limited benefit during the Federal Public Health Emergency ("FPHE") related to the Covid-19 Pandemic. During the FPHE, MassHealth benefits were protected by the federal government. This protection was lifted on April 1, 2023, and MassHealth began asking members to complete renewal application to redetermine their eligibility.

On August 28, 2023, MassHealth sent the appellants a renewal application. MassHealth did not receive the renewal, and on October 18, 2023, MassHealth sent out a termination notice for failing to renew. This notice stated that the appellant's benefits would be terminated effective December 31, 2023. A second notice was sent on November 26, 2024. The next submission MassHealth received was a completed application on February 6, 2024. That application reported household income equivalent to 258.56% of the federal poverty level, and the appellants were informed that they were eligible to purchase insurance through the Health Connector. They were also approved for the Health Safety Net with a deductible of \$4,619.21, but this Health Safety Net coverage was only effective as of January 27, 2024, 10 days prior to the application date.

The appellants testified that they received the termination notice in October, and immediately returned the renewal application. MassHealth never received this renewal. The appellants did not receive the November notice, and therefore assumed they were all set. The appellants had medical appointments throughout [REDACTED] that continued to be covered. On January 4, the appellant-husband had a follow up appointment, and his provider did not mention that his coverage had ended. Then on January 17, the appellant was sick at work and went to the emergency room. He had an umbilical hernia that required surgery. In the hospital, he was informed that his coverage was denied. They have since received bills for uncovered medical care in excess of \$36,000.

The appellant's sister testified the hospital told them that the coverage was declined. She asked if they could help apply, and she was informed that the hospital did not do that. The appellants called a community organization to ask for help completing an application, but the first appointment available was February 5, which is why the application was not submitted until that day. They wanted to bring in all the documents that they had filed back in October to make sure they had not made a mistake with their application. They were told that they would not qualify for MassHealth based on income.

Since the appealed notice, the appellants have updated their income and received different notices approving them for MassHealth and then again denying them MassHealth. Part of the confusion

regarding these notices was that the appellant-wife had reached her [REDACTED] as a permanent resident, and she is no longer restricted to MassHealth Limited or Family Assistance. However, MassHealth's representative confirmed that the most up-to-date information regarding their income makes them eligible for the Health Connector.

The appellants do not dispute the income MassHealth is using to determine their eligibility, rather, their concern is that they need coverage for January 17, regardless of from whom that coverage comes. The appellants also felt that MassHealth should provide more notice regarding termination of coverage. They noted that they have received five or six notices requesting proof of residency or income, but there were only ever two notices sent out regarding the termination, and one of those went missing. They wanted to know how to get coverage for these bills, or otherwise what they should do regarding these bills, since they cannot possibly afford to pay over \$36,000 in medical bills. They were informed that they would need to seek counsel elsewhere, as these were not issues that MassHealth could answer.

## Findings of Fact

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

- 1) The appellants are between the ages of [REDACTED] and they have a household size of two. (Testimony by MassHealth's representative and the appellants.)
- 2) On August 28, 2023, MassHealth sent the appellants a renewal application. On October 18, 2023, MassHealth sent out a termination notice for failing to renew, terminating benefit effective December 31, 2023. A second notice was sent November 26, 2023. (Testimony by MassHealth's representative.)
- 3) MassHealth did not receive a renewal application, and the appellants coverage was terminated on December 31, 2023. (Testimony by MassHealth's representative; Exhibits 8; 14.)
- 4) The appellants completed an application on February 6, 2024. They reported income on that application equivalent to 258.56% of the federal poverty level for a household of two. This income has since been verified. (Testimony by MassHealth's representative and the appellants.)
- 5) The appellants were approved for Partial Health Safety Net, effective January 27, 2024, and they were informed they could purchase insurance through the Health Connector. (Exhibits 1; 2.)
- 6) The appellants have over \$36,000 in unpaid medical bills arising from care received between December 31, 2023, and January 27, 2024. (Exhibits 9-11.)

## Analysis and Conclusions of Law

MassHealth must receive an application before it can determine a member's eligibility. An application is defined as

a request for health benefits that is received by the MassHealth agency and includes all required information and a signature by the applicant ... . The application may be submitted at [www.MAHealthConnector.org](http://www.MAHealthConnector.org), or the applicant may complete a paper application, complete a telephone application, or apply in person at a MassHealth Enrollment Center (MEC).

(130 CMR 501.001.)

The date of an "online, telephonic, or in-person application is the date the application is submitted to the MassHealth agency." (130 CMR 502.001(A)(1)(a).) For mailed or faxed applications, the date of application is the "the date the application is received by the MassHealth agency." (130 CMR 502.001(A)(1)(b).) The MassHealth coverage date for most adults, younger than ■■■, is 10 days before the date of the application. (See 130 CMR 502.006.) This is also true for Health Safety Net coverage: "The medical coverage date begins on the tenth day before the date the Application is received ... ." <sup>2</sup> (101 CMR 613.02.)

MassHealth members must also participate in determinations of continuing eligibility, and MassHealth may terminate benefits for failing to provide a renewal application. (See 130 CMR 502.007.) Ultimately, this appeal must be DISMISSED with regards to any attempt to review MassHealth's termination of the appellant's benefits.

MassHealth's termination notice was sent out on or around October 18, 2023, and a follow up notice was sent on November 26, 2023. The appellant filed an appeal on March 11, 2024. This is a span of 145 and 106 days respectively.

(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;**

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<sup>2</sup> Both MassHealth and Health Safety Net allow hospitals to complete a "Presumptive Determination" of eligibility. (See 130 CMR 502.003(H); 101 CMR 613.04(4).) However, the hospital they attended does not appear to have made this option available.

(130 CMR 610.015(B).)

There is an extended 120-day timeframe for appeals where MassHealth “fails to act on an application; ... fails to act on [a request for services]; ... fails to send written notice of the action; or” the date on which it is alleged that a MassHealth employee has coerced or otherwise improperly deterred the member from filing an appeal.<sup>3</sup> (130 CMR 610.015(B)(2).) Appeals must be dismissed where “the request is not received within the time frame specified in 130 CMR 610.015.” (130 CMR 610.035(A)(1).) The appellants acknowledged receiving the October 18, 2023 termination notice. They responded to this notice, but that application was never received. To the extent that the appellant’s are attempting to contest the termination of benefits, this appeal is DISMISSED.

Regarding ongoing eligibility, MassHealth offers a variety of coverage types based upon an individual’s circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below the relevant financial thresholds. Financially, members under the age of ■ who seek MassHealth benefits must have countable income under 133% of the federal poverty level.<sup>4</sup> (See e.g., 130 CMR 505.006(B)(4), 505.008(A).) MassHealth’s determination that the appellant’s income was 258% of the federal poverty level is uncontested by the appellants. That figure is based upon the income attested on the appellants application, and it has since been verified by MassHealth. Therefore, this appeal is DENIED in so far as the appellants seek MassHealth coverage. Were they financially eligible for MassHealth, this appeal would also need to deny the request for those benefits to go retroactive more than 10 days before the date of the application.<sup>5</sup>

## Order for MassHealth

None.

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<sup>3</sup> The “date of application” is defined to be the date the application is received, (130 CMR 502.001), and there are multiple reasons why an application can be rejected as an “incomplete application,” without any eligibility determination (130 CME 502.001(A)(4)). Therefore, the language allowing extended appeal rights when the agency “fails to act on an application” must require an application be logged with MassHealth but not processed.

<sup>4</sup> The appellant-wife is now a Qualified Noncitizen, and categorically eligible for CarePlus benefits rather than Limited. (See 130 CMR 504.003(A)(1).)

<sup>5</sup> The Board of Hearings does not have jurisdiction over Health Safety Net eligibility issues. (See 130 CMR 610.000; 101 CMR 613.04(5) (“Grievance Process”).)

## 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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

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