

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|--|------------------------|------------------------------|
| Appeal Decision: | Dismissed in part; Approved in part | Appeal Number: | 2403908 |
| Decision Date: | 08/01/2024 | Hearing Date: | 04/25/2024 and 05/20/2024 |
| Hearing Officer: | Kimberly Scanlon | Record Open to: | 05/28/2024 |

Appearance for Appellant:

Via telephone

Pro se

Appearance for MassHealth:

Via telephone

Kathryn Begin, Tewksbury MEC (04/25/2024)

Connie Dorvil, Tewksbury MEC (05/20/2024)

Carmen Fabery, Premium Billing



*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: | Dismissed in part; Approved in part | Issue: | Eligibility; Under 65; Premiums |
| Decision Date: | 08/01/2024 | Hearing Date: | 04/25/2024 and 05/20/2024 |
| MassHealth's Rep.: | Kathryn Begin; Connie Dorvil; Carmen Fabery | Appellant's Rep.: | Pro se |
| Hearing Location: | Tewksbury MassHealth Enrollment Center Room 2 (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

Through a notice dated February 21, 2024, MassHealth notified the appellant that her benefits were terminating on March 6, 2024 for failing to pay past due premiums (Exhibit 6, pp. 8-11). Through a separate notice dated February 27, 2024, MassHealth notified the appellant that she was approved for MassHealth CommonHealth benefits (Exhibit 1). The appellant filed this appeal in a timely manner on March 10, 2024 (130 CMR 610.015(B); Exhibit 2). Termination of assistance is valid grounds for appeal (130 CMR 610.032). The notices were consolidated, and a fair hearing was scheduled on April 25, 2024 (Exhibit 5). The hearing was convened on May 20, 2024 for additional testimony (Exhibit 7). The record was reopened for a brief period for the submission of additional information (Exhibit 9).

Action Taken by MassHealth

MassHealth notified the appellant that her coverage was terminating on March 6, 2024 for failing to pay past due premiums.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant's benefits should terminate for failing to pay past due premiums.

Summary of Evidence

MassHealth was represented at the initial hearing by an eligibility representative and a representative from the Premium Billing Unit; both parties participated by telephone. The record establishes the following: The appellant is an adult female who resides in a household size of 1. The appellant is a citizen, with no tax dependents. She is disabled and a tax filer. There are no other special circumstances applicable to the appellant, such as pregnancy or cancer, for example. On February 22, 2024, MassHealth received the appellant's Social Security award letter. The appellant's income was verified in the amount of \$1,690.50 on February 27, 2024, which generated the February 27 approval notice for MassHealth CommonHealth coverage, with a \$0 monthly premium (Exhibit 1). Prior to receiving the appellant's Social Security award letter, MassHealth had on file that the appellant's monthly income from Social Security totaled \$1,370.00. Upon receiving her Social Security award letter, MassHealth updated her income. Because the appellant's verified monthly income exceeded 133% of the federal poverty level (FPL), MassHealth determined that she was over the allowable income limit to receive MassHealth Standard benefits. The appellant was approved for MassHealth CommonHealth benefits. *Id.*¹ Presently, the appellant's monthly income of \$1,690.50 is equal to 134.14% of the FPL (Exhibit 1, p. 2).

The MassHealth representative testified that, by way of background, MassHealth sent the appellant a notice requesting proof of her Social Security income on April 1, 2023. Her proof of income was due by June 30, 2023.² On November 15, 2023, MassHealth notified the appellant that her benefits were downgrading from MassHealth Standard to MassHealth CommonHealth, with a \$176.40 monthly premium assessed, beginning in December of 2023 (Exhibit 6, pp. 9-11). The November 15th notice also informed the appellant that her monthly income was equal to 450.21%

¹ When MassHealth generated the February 27th CommonHealth approval notice, the MassHealth representative explained that 133% of the FPL amounted to \$1,616.00 per month, in accordance with the 2023 FPL guidelines. At the date of the hearing, 133% of the FPL increased to \$1,670.00 per month, in accordance with the 2024 FPL guidelines.

² The MassHealth representative testified that proof of the appellant's social security income was not received until February 22, 2024.

of the FPL (Exhibit 6, p. 11). On February 21, 2024, MassHealth notified the appellant that her CommonHealth benefits were terminating on March 6, 2024, for failure to pay past due premiums (Exhibit 6, p. 8).

The Premium Billing representative confirmed that based on the appellant's eligibility determination on November 15, 2023, a monthly premium of \$176.40 was assessed, beginning in December of 2023. The appellant was billed \$176.40 for the months of December of 2023 through February of 2024, totaling \$529.20. Because MassHealth did not receive any premium payments from the appellant for the months that she was billed, an administrative closure was placed on the appellant's account on February 21, 2024 for failure to pay premiums (Exhibit 6, p. 8).

The appellant appeared at the hearing by telephone and explained that she never received the November 15th notice, nor did she receive any further notices from MassHealth in December. She stated that the first notice she received from MassHealth was the February 21, 2024 termination notice. The appellant received two premium bills in January and February of 2024. The February 2024 bill indicated that she owed a total amount of \$529.20 by March 15, 2024 (Exhibit 4). The appellant explained that upon receipt thereof, she became anxious and started calling MassHealth to figure out what was going on. The appellant stated that she spent hours on the telephone with MassHealth because she was re-directed to Premium Billing, then back to MassHealth customer service because no one appeared to know what was going on. The appellant explained that ultimately, a MassHealth customer service representative suggested that the appellant file a request for a fair hearing. The appellant testified that she resides in a condominium unit with 4 additional condominiums surrounding her. She stated that it is possible that the MassHealth notices/premium bills that were sent to her in November and December of 2023 were mis-delivered to one of her neighbors. She reiterated that she only received the February 21st termination notice; the February 27th approval notice, and January and February, 2024 premium bills. The appellant explained that on occasion, she receives her neighbor's mail, so it is possible that her mail was mis-delivered as well. The appellant testified that had she received the 2023 notices, she would have contacted MassHealth immediately because she is on a fixed income.

The MassHealth representative confirmed that currently, the appellant was approved for CommonHealth coverage, with a \$0 monthly premium assessed. The Premium Billing representative confirmed that the appellant has a previous balance of \$529.20 that is still owed for past due premiums. The MassHealth representative testified that there are not any notations in the computer system from November of 2023 through January of 2024 that indicate that the appellant contacted MassHealth. She explained that on February 28, 2024, a notation indicates that the appellant contacted MassHealth regarding unpaid premiums. The notation further indicates that the appellant was transferred to the Premium Billing department. The Premium Billing representative stated that Premium Billing notes indicate that the appellant attempted to contact Premium Billing in late January of 2024, and she was transferred to the MassHealth customer service department. The Premium Billing representative explained that she is unable to waive premiums without approval from MassHealth. The appellant confirmed that she contacted

MassHealth and spoke to numerous representatives because she was continuously transferred to different departments. The appellant stated that she barely makes livable wages and upon receiving the January and February, 2024 premium bills, she contacted MassHealth. Upon further inquiry, the MassHealth representative testified that in November of 2023, according to the November 15th downgrade notice, the appellant's monthly income amounted to 450.21% of the FPL (Exhibit 6, p. 12). Conversely, the February 27, 2024 notice states that MassHealth determined that the appellant's monthly income from Social Security amounts to 134.14% of the FPL. She stated that it is her understanding that MassHealth verifies a member's income that is taxable with the IRS and performs a cross match. Upon performing a cross match with the IRS, MassHealth determined that the appellant's monthly income at that time equated to 450.21% of the FPL. The appellant testified that \$529.20 is a lot of money, given her fixed monthly income.

At the reconvened hearing, MassHealth was represented by an eligibility representative and a representative from the Premium Billing Unit; both parties participated by telephone. The MassHealth representative confirmed that on November 15, 2023, MassHealth determined that the appellant's monthly income was equal to 450.21% of the FPL. Additionally, she confirmed that the appellant's current income from Social Security of \$1,690.50 equals 134.14% of the FPL. The MassHealth representative researched the discrepancies between the notices with respect to the FPL percentages in comparison to the appellant's income, to no avail. The record was left open for a brief period to allow MassHealth time to perform additional research (Exhibit 9). MassHealth subsequently responded that the discrepancies were due to MassHealth not receiving the appellant's verification of her monthly income in a timely manner. Thus, the MassHealth computer system performed its own self-verification, which generated the 450.21% FPL figure in November of 2023 (Exhibit 10).

Findings of Fact

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

1. The appellant is an adult female who resides in a household size of 1.
2. The appellant's current countable monthly income is equal to 134.14% of the FPL for her family size.
3. On February 27, 2024, the appellant was approved for MassHealth CommonHealth benefits, with a \$0 monthly premium.
4. On February 21, 2024, MassHealth notified the appellant that her benefits were terminating on March 6, 2024, for failing to pay past due premiums.
5. On November 15, 2023, MassHealth sent the appellant a downgrade notice, informing her

that her benefits were downgraded from MassHealth Standard to CommonHealth, with an assessed monthly premium of \$176.40.

6. The appellant did not receive this November 15th downgrade notice.
7. The appellant contacted MassHealth in January of 2024 and in February of 2024 to inquire about the premium bills and termination notice that she received.

Analysis and Conclusions of Law

At issue in this appeal is whether MassHealth correctly determined on February 21, 2024 that the appellant's CommonHealth benefits should terminate on March 6, 2024 for failure to pay past due premiums. The appellant was notified on February 27, 2024 that she was approved for CommonHealth coverage, with a \$0 monthly premium assessed. The appellant does not dispute the February 27th approval notice and therefore, this portion of the appeal is dismissed.

With respect to the February 21st termination notice for failure to pay past due premiums, the appellant alleges that she did not receive the November 15, 2023 downgrade notice informing her that her MassHealth benefits were downgraded from Standard to CommonHealth, with a monthly premium of \$176.40 starting in December of 2023. To timely appeal a MassHealth action, the member must file an appeal with BOH within 60 days of receiving the written notice in dispute (130 CMR 610.015(B)(1)). Alternatively, when the member has alleged that MassHealth failed to send written notice of the action the time limitation is extended to 120 days from the date of the action (130 CMR 610.015(B)(2)(c)).

I credit the appellant's testimony that she did not receive the November 15, 2023 notice and therefore did not know that a monthly premium was assessed at that time. The appellant testified credibly several times that all notices that she received from MassHealth included the following: January and February, 2024 premium bills, February 21, 2024 termination notice for failure to pay past due premiums amounting to \$529.40, and the February 27, 2024 approval notice with a \$0 monthly premium assessed. I credit the appellant's testimony that she contacted MassHealth upon receiving said notices, as evidenced by the testimony given by MassHealth and Premium Billing representatives regarding the case notations entered in late January and February of 2024. The appellant provided credible testimony that she was not made aware that a monthly premium was assessed in November of 2023. These facts, coupled with the fact that the record does not include any compelling evidence that the appellant's income in November of 2023 was properly calculated, leads me to conclude that had the appellant received the November 15, 2023 notice, she would have immediately contacted MassHealth to ensure that it had the correct income information for her on file. This is further evidenced by the fact that only 6 days after sending the appellant the February 21, 2024 termination notice for failure to pay past due premiums, MassHealth sent the appellant an approval notice, with a \$0 monthly premium assessed. The

appellant has demonstrated by a preponderance of the evidence that she should not have been assessed a CommonHealth premium in November 2023, and thus should not have had her coverage terminated for failing to pay those premiums.

This portion of the appeal is APPROVED.

Order for MassHealth

Rescind the February 21, 2024 termination notice and waive all past-due MassHealth CommonHealth premiums.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

MassHealth Premium Billing