

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2404463
Decision Date:	5/8/2024	Hearing Date:	04/22/2024
Hearing Officer:	Patricia Mullen	Record Open to:	05/22/2024

Appearances for Appellant:



Appearance for MassHealth:

Pamela Filipe, Taunton MEC



*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:	Approved	Issue:	Community eligibility -over 65; coverage start date
Decision Date:	5/8/2024	Hearing Date:	04/22/2024
MassHealth's Rep.:	Pamela Filipe, Taunton MEC	Appellant's Reps:	Pro se; DMH case manager; brother; sister
Hearing Location:	Quincy Harbor South		

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 14, 2024, MassHealth upgraded the appellant from MassHealth Senior Buy In to MassHealth Standard benefits with a Standard start date of February 1, 2024. (see 130 CMR 519.005 and Exhibit 1). The appellant filed this appeal in a timely manner on March 21, 2024 disputing the start date for MassHealth Standard. (see 130 CMR 610.015(B) and Exhibit 2). Dispute of a MassHealth start date is valid grounds for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth upgraded the appellant to MassHealth Standard with a Standard start date of February 1, 2024.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005; 516.006, in determining that the appellant's start date for MassHealth Standard coverage is February 1, 2024.

Summary of Evidence

The appellant appeared in person at the hearing with his case worker from the Department of Mental Health (DMH), his brother, and his sister. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. According to the Medicaid Management Information Systems (MMIS) screen in the record, the appellant is over age [REDACTED] and was open on MassHealth Standard or CommonHealth for disabled individuals, as a person under age [REDACTED], from at least 1999 to 2019. (Exhibit 4). After turning [REDACTED], the appellant was on MassHealth Standard for persons age [REDACTED] and older through category TX (Hermanson with Medicare) from 2019 through March 16, 2022. (Exhibit 4). The appellant was then open on MassHealth Standard for persons age [REDACTED] and older from March 1, 2022 through July 14, 2023. (Exhibit 4). The appellant was terminated from MassHealth Standard on July 14, 2023 and was open on MassHealth Senior Buy In from June 30, 2023 to February 14, 2024. (Exhibit 4). The appellant was open on MassHealth Standard for persons age [REDACTED] and older with a start date of February 1, 2024 and remains open on such coverage. (Exhibit 4). The appellant is appealing the February 1, 2024 start date for his MassHealth Standard coverage and seeking coverage for the gap in MassHealth Standard from July 14, 2023 to February 1, 2024. (Exhibits 2, 7).

Prior to the hearing, the appellant submitted a letter in support of his appeal and some financial documentation. (Exhibit 7). The appellant writes that he was hospitalized for months and was unaware his MassHealth had been terminated during that time, noting that the hospital never informed him that his MassHealth ended, and instead began billing him upon his discharge at the end of [REDACTED] (Exhibit 7).

The MassHealth representative also submitted documentation prior to the hearing. (Exhibit 6). The MassHealth representative wrote that verification was received at MassHealth on June 30, 2023, resulting in a downgrade from MassHealth Standard to MassHealth Senior Buy In. (Exhibit 6, p. 1). The MassHealth representative submitted Letters of Reference from the appellant's bank showing a checking account balance of \$2,358.24 on June 13, 2023 and a savings account balance of \$574.72 on June 13, 2023. (Exhibit 6, p. 4). At the hearing, the MassHealth representative submitted a copy of a MassHealth notice dated June 30, 2023. (Exhibit 8). By notice dated June 30, 2023, MassHealth terminated the appellant's MassHealth Standard coverage with an end date of July 14, 2023, because MassHealth determined that the appellant's assets exceeded the limit for MassHealth Standard. (Exhibit 8). MassHealth determined total assets of \$2,932.96 (\$2,358.24 + \$574.72) which exceeded the MassHealth limit of \$2,000.00 by \$932.96. (Exhibit 8). The MassHealth representative stated that the appellant had direct deposit Social Security income of \$1,205.40 a month in 2023. (Exhibit 9, p. 34).

The MassHealth representative testified that MassHealth received the appellant's application and the bank Letters of Reference on June 30, 2023. The MassHealth representative stated that the

appellant's countable income was within MassHealth Standard income limits, but his assets exceeded the MassHealth Standard asset limit by \$932.96, as noted above. The MassHealth representative stated that MassHealth received updated bank statements on February 14, 2024, and because the assets were below \$2,000.00 at that time, MassHealth approved the appellant for MassHealth Standard with a start date of February 1, 2024. The hearing officer asked why MassHealth did not approve the MassHealth Standard for persons age [REDACTED] and older 3 months retroactive, and the MassHealth representative stated that MassHealth did not have verification that the appellant's assets were reduced 3 months prior.

The hearing officer asked why MassHealth did not deduct the appellant's direct deposit income from the checking account balance submitted in June, 2023. The MassHealth representative stated that MassHealth only deducts direct deposit income when it receives full bank statements, not just bank Letters of Reference. The hearing officer asked why MassHealth did not send the appellant a Request for Information for full bank statements. The MassHealth representative stated that MassHealth was not seeking a renewal application for the appellant, rather an unsolicited application was submitted on June 30, 2023 with the Letters of Reference.

During and after the hearing, the appellant noted that he was admitted inpatient to a psychiatric facility from [REDACTED] to [REDACTED] from [REDACTED] to [REDACTED] and from [REDACTED] [REDACTED] after being Sectioned 12. The appellant testified that during his hospitalizations, his mail was held by the post office. The appellant testified that he never received the June 30, 2023 MassHealth notice. The appellant stated that Medicare is his primary insurer, but he has received bills from the psychiatric hospital totaling over \$200,000. The appellant presented one of the bills at hearing and the hospital charged \$90,000.00 per quarter, with some amount of adjustment made, presumably from Medicare. The appellant had balances due of over \$50,000.00 per quarter. The appellant testified that during his hospitalization, the hospital never made him aware that MassHealth was not paying for his stay. The appellant noted that he does not know if the hospital attempted to bill MassHealth during his stay. The appellant stated that after he was discharged in [REDACTED] the hospital began billing him and he learned his MassHealth had been terminated. The appellant stated that he submitted updated bank statements to MassHealth and was approved for Standard retroactive to February 1, 2024. (Testimony, exhibit 1). The appellant testified that he is suffering great distress from the bills that total over \$200,000 and has no way to pay such bills.

The appellant's sister explained that she and her brother assist the appellant and were concerned that he might miss a MassHealth review when he was hospitalized last spring/summer. The appellant's sister stated that she had surgery scheduled and wanted to get the appellant's MassHealth squared away before she was laid up after surgery. The appellant's sister stated that she went to the MassHealth Enrollment Center in Taunton and was told that the appellant was not up for review yet, but would be soon and she could take a paper application to complete and return. The appellant's sister stated that she submitted the paper application for the appellant and submitted the Letters of Reference from the bank. The appellant's sister stated that she

would have submitted complete bank statements had she known such was necessary. The appellant's sister testified that she keeps track of the appellant's paperwork and she never received the termination notice dated June 30, 2023.

The record was left open until May 22, 2024, to give the appellant the opportunity to submit the complete bank statement for the checking and savings account at issue for the period June 13, 2023 to July 11, 2023. (Exhibit 10). During the record open period, the appellant submitted the complete bank statement for his savings and checking accounts for the period June 15, 2023 through July 13, 2023. (Exhibit 11, p. 4). The appellant's direct deposit income of \$1,205.00 was deposited into his checking account on June 29, 2023 and no deposits were made into his account after that date. (Exhibit 11, p. 5). The appellant's bank account balance on July 6, 2023 was \$1,594.00. (Exhibit 11, p. 5). Subtracting the direct deposit income of \$1,205.00 from the balance of \$1,594.00 leaves a countable checking account balance of \$389.00. (Exhibit 11, p. 5).

Findings of Fact

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

1. The appellant is over age [REDACTED] and was open on MassHealth Standard or CommonHealth for disabled individuals, as a person under age [REDACTED], from at least 1999 to 2019.
2. The appellant was on MassHealth Standard for persons age [REDACTED] and older from 2019 through July 14, 2023.
3. The appellant was open on Senior Buy In from June 30, 2023 to February 14, 2024 and was upgraded to MassHealth Standard with a start date of February 1, 2024.
4. The appellant's sister submitted an unsolicited paper application to MassHealth, on the appellant's behalf, on June 30, 2023, with Letters of Reference from the appellant's bank showing a checking account balance of \$2,358.24 on June 13, 2023 and a savings account balance of \$574.72 on June 13, 2023.
5. By notice dated June 30, 2023, MassHealth downgraded the appellant from MassHealth Standard coverage to MassHealth Senior Buy In, with a Standard end date of July 14, 2023, because MassHealth determined that the appellant's assets exceeded the limit for MassHealth Standard.
6. The appellant's 2023 Social Security income of \$1,205.40 was directly deposited into his checking account.
7. MassHealth did not request complete bank statements from the appellant.

8. The appellant was an inpatient at a psychiatric facility from [REDACTED] after being Sectioned 12.
9. During his hospitalizations, the appellant's mail was held by the post office.
10. The appellant did not receive the June 30, 2023 MassHealth notice of downgrade to Senior Buy In.
11. The appellant learned that his MassHealth Standard had been terminated after he was discharged from the psychiatric facility in [REDACTED] and began receiving bills totaling over \$200,000 from the facility.
12. Upon learning that his MassHealth Standard had been terminated, the appellant submitted updated bank statements to MassHealth on February 14, 2024 and was approved for Standard retroactive to February 1, 2024.
13. During the record open period, the appellant submitted the complete bank statement for his savings and checking accounts for the period June 15, 2023 through July 13, 2023.
14. The appellant's direct deposit income of \$1,205.00 was deposited into his checking account on June 29, 2023 and no deposits were made into his account after that date.
15. The appellant's bank account balance on July 6, 2023 was \$1,594.00.
16. Subtracting the direct deposit income of \$1,205.00 from the balance of \$1,594.00 leaves a countable checking account balance of \$389.00.

Analysis and Conclusions of Law

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:...

- (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.

130 CMR 610.015(B)(2)).

Aside from a couple of weeks in [REDACTED], the appellant was an inpatient at a psychiatric facility starting in [REDACTED] and did not receive mail during that time. The appellant noted that the Post Office was holding his mail, but the MassHealth notice was not in the mail he retrieved from the Post Office after his discharge. Due to privacy and HIPPA concerns, MassHealth might not allow for forwarding of its written correspondence. Regardless, because the appellant never received the June 30, 2023, and because he was an inpatient at a psychiatric facility for the 9 month period at issue with no knowledge that his MassHealth Standard benefits had been terminated and no way to file an appeal of such termination, the BOH Director waives the 120 day time limit for filing an appeal on the June 30, 2023 MassHealth notice. The June 30, 2023 is therefore at issue in this appeal.

Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable-income amount, as defined in 130 CMR 520.009: Countable-income Amount, of the individual or couple is less than or equal to 100% of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(130 CMR 519.005(A)(1), (2)).

In June, 2023, the appellant was open on MassHealth Standard for persons age [REDACTED] and older. In an attempt to proactively ensure that the appellant did not lose his MassHealth benefits while hospitalized, his sister submitted an unsolicited MassHealth application to the MassHealth Enrollment Center in Taunton on June 30, 2023. MassHealth processed the application using the bank Letters of Reference, despite the fact that a full bank statement was necessary to allow for the appellant's direct deposit income to be deducted from his checking account balance, thereby making him asset eligible for MassHealth Standard. Rather than issue a Request for Information, MassHealth just used the submitted bank Letters of Reference and terminated the appellant from the MassHealth Standard coverage he had had for at least 24

years, based on a determination of \$932.96 in excess assets. Because the appellant never received the June 30, 2023 notice, he did not submit the bank statements that would've shown that he was asset eligible at that time.

During the record open period, the appellant submitted his bank statements for June-July, 2023. The appellant's savings account balance was \$574.72. After deducting his direct deposit income, the appellant's countable checking account balance was \$389.00. The appellant's total countable assets were \$963.00 on July 14, 2023. Because the appellant's assets were below the MassHealth limit of \$2,000.00, and because there was no dispute that the appellant's income was below 100% of the federal poverty level, the appellant was financially eligible for MassHealth Standard for persons age [REDACTED] and older on July 14, 2023. MassHealth's notice dated June 30, 2023 is overturned and the appeal is approved allowing for MassHealth Standard coverage retroactive to the termination date of July 14, 2023.

Order for MassHealth

Approve the appellant for MassHealth Standard retroactive to the termination date of July 14, 2023.

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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616