

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2405160
Decision Date:	6/27/2024	Hearing Date:	April 29, 2024
Hearing Officer:	Brook Padgett	Record Open:	May 17, 2024

Appellant Representative:



MassHealth Representatives:

Michele Carvalho, Taunton MEC
Odilia Ruiz, Premium Assistance



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	130 CMR 506.012
Decision Date:	6/27/2024	Hearing Date:	April 29, 2024
MassHealth Rep.:	M. Carvalho, Odilia Ruiz	Appellant Rep.:	
Hearing Location:	Taunton		

Authority

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

Jurisdiction

The appellant received a notice dated January 31, 2024 stating: “Based on the information you or your employer gave us, *you or your family do not qualify for Premium Assistance benefits*. To qualify for Premium Assistance, you (and if applicable, your family member(s) must meet all the rules of MassHealth Premium Assistance regulations at 130 CMR 506.012.” (Exhibit 1).

The appellant appealed the MassHealth action timely on March 29, 2014. (130 CMR 610.015; Exhibit 2).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant’s request for Premium Assistance benefits.

Issue

Was the appellant's Premium Assistance eligibility correctly determined?

Summary of Evidence

MassHealth testified the appellant is a member of a household of two with the appellant as tax filer and her [REDACTED] year old son a tax dependent. The household income was determined to be 244.61% of the federal poverty level (FPL) and consists of \$190.35 every two weeks from [REDACTED] and \$851.48 weekly from [REDACTED] for a total month income of \$4,101.96. MassHealth stated the appellant is not eligible for MassHealth as the household is over the income limits for MassHealth.

A representative from Premium Assistance testified the appellant was denied premium assistance benefits on January 31, 2024 because the appellant is not enrolled in an insurance family plan. The appellant is currently enrolled in an individual private insurance [REDACTED] plan and her son is also enrolled in an individual plan [REDACTED]. The representative stated the appellant can only receive premium assistance if she is in family plan with her son who has MassHealth CommonHealth. The representative stated the appellant was sent a qualifying event letter on July 14, 2023 which stated the appellant was required to enroll in a family plan with her son if she wanted premium assistance benefits. The appellant replied to the premium assistance letter with verification that she and her son had enrolled in two separate insurance plans and not together in a family plan and her request for premium assistance was denied.

The appellant's representative argued the appellant had been on MassHealth for several years when her coverage ended on June 20, 2023 due to her income. On June 18, 2023 the appellant received a letter from Premium Assistance stating they had been informed that either she or a member of her household had employer-sponsored health insurance (ESI) and therefore might be eligible for premium assistance to help pay for the cost. The appellant completed the Access to Employer-Sponsored Health Insurance Coverage form on June 28, 2023. In July 2023 the appellant had not heard from MassHealth or Premium Assistance so she contacted MassHealth and was told she needed to provide proof of her enrollment in her ESI. The appellant immediately enrolled in a [REDACTED] individual plan offered by her employer. The appellant maintains she would have never enrolled in this plan if she had been instructed not to do so by MassHealth as she could not afford the plan. The appellant contacted Premium Assistance in August 2023 to inquire about the status of her application and was verbally told it was denied. The appellant testified she was not given a reason for the denial at the time. The appellant asserted that it was not until December 2023 when she contacted MassHealth again that she was verbally informed that the reason for the denial of premium assistance is that she enrolled in an individual not a family insurance plan. The appellant maintains she was never informed either verbally or in writing that she needed to enroll in a family plan and not an individual plan. The appellant has been paying a premium of \$408.14 a month and has incurred almost \$1,000.00 in out of pocket expenses in her PPO. The appellant has attempted to switch to a family plan, but her employer has not allowed this stating that there has been no qualifying event and the open enrollment period has passed. The appellant noted that she cannot alter her current insurance and is locked out of enrolling in a more affordable family plans.

The appellant's representative argues at the time of her Premium Assistance application the appellant had a right to information and assistance in completing her application under state and

federal regulations. 130 CMR 501.009(D) and 42 CFR 435.908(a). The appellant was not informed that her eligibility for premium assistance was based on her son's eligibility for CommonHealth and that she needed to enroll in a family plan. This lack of information caused her to enroll in the wrong plan and have her MassHealth Premium Assistance benefits denied. The representative at Premium Assistance did give the appellant general information but did not provide specific information that would assist her in enrolling in the correct ESI. Since the appellant was not informed she must enroll in a family plan to be eligible for premium Assistance the denial of her application should be overturned and her employer should be directed to allow the appellant to switch to a family plan and she should be approved for premium assistance as of her initial request in August 2023, as well as reimbursement for out-of-pocket expenses which resulted from her initial denial of Premium Assistance benefits. (Exhibit 4 and 5).

Premium Assistance responded that they received proof of enrollment in September, however the case wasn't processed because the appellant was under MassHealth renewal and did not fully complete her renewal until October 13, 2023. Premium Assistance stated they did not send out a denial letter at that time (that practice has since been reversed and a denial notice is now being sent), however the appellant called Premium Assistance and she was informed why the case was denied. Premium Assistance stated the appellant called in January 2024 to say she has never received a denial letter so one was sent on January 31, 2024 which generated the appeal. Premium Assistance stated they can send the appellant a new qualifying event letter which would allow her to change insurance and make her eligible for Premium Assistance as soon as she and her son were both enrolled in the same ESI family plan. Premium Assistance stated they would also provide a disenrollment letter if it was required when choosing her new family plan.

The appellant's representative responded that the appellant would enroll in a family plan, however the appellant should also receive retroactive Premium Assistance as of the date of her initial denial in August 2023 as well as reimbursement for all past out of pocket expenses during that period.

At the request of the appellant's representative the record remain open until May 17, 2024 to submit a legal memorandum requesting retroactive Premium Assistance benefits and out of pocket expenses. The hearing officer requested a copy of the July 14, 2023, Qualifying Event letter sent to the appellant. (Exhibit 6).

MassHealth provided a copy of the July 14, 2023, Qualifying Event letter addressed to the appellant's current address within the required time limits. (Exhibit 7).

The appellant's representative submitted a legal memorandum within the require time limits arguing federal regulations governing state Medicaid programs require the "agency must make corrective payment, retroactive to the date an incorrect action was taken, [...] if – (a) The hearing decision is favorable to the applicant..." 42 CFR 431.246. The representative restates previous argument that the denial of the appellant's MassHealth Premium Assistance was an incorrect action by MassHealth because the appellant did not receive any communication from MassHealth indicating she needed to enroll in a family plan with her son. The appellant never received the July

14, 2023 letter and the letter did not reference a specific plan for the appellant but rather it instructed her to call Premium Assistance for assistance in enrolling in a plan that would meet the Premium Assistance requirements. Since Premium Assistance has no written notice as required by 130 CMR 502.008 the appellant requests the retroactive date for all reimbursements from August 2023 to April 2024. (Exhibit 8).

Findings of Fact

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

1. The appellant is a member of a household of two with total income of \$4,101.96, which is 244.61% of the FPL. (Testimony).
2. On June 18, 2023, the appellant received a letter from Premium Assistance stating either she or a member of her household had employer-sponsored health insurance and therefore might be eligible for premium assistance to help pay for the cost. (Exhibit 4).
3. The appellant completed the Access to Employer-Sponsored Health Insurance Coverage form on June 28, 2023. (Testimony).
4. The appellant was sent a qualifying event letter on July 14, 2023 which stated the appellant was required to enroll in a family plan with her son. (Exhibit 7).
5. In July 2023 the appellant had not heard from MassHealth or Premium Assistance so she contacted MassHealth and was told she needed to provide proof of her enrollment in her ESI. (Testimony).
6. The appellant replied to the Premium Assistance letter with verification that she and her son had enrolled in two separate insurance plans. (Testimony).
7. The appellant contacted Premium Assistance in August 2023 to inquire about the status of her application and was verbally told it was denied. (Testimony).
8. The appellant's request was processed and denied on October 13, 2023. MassHealth did not send out a denial letter at that time. (Testimony).
9. The appellant contacted Premium Assistance in October and was informed why the case was denied. (Testimony).
10. The appellant contacted Premium Assistance in January 2024 requesting a denial letter. (Testimony).
11. The appellant received a MassHealth Premium Assistance denial letter on January 31, 2024 as she was not enrolled in an ESI family plan. (Exhibit 1).

Analysis and Conclusions of Law

On June 18, 2023, the appellant received a letter from MassHealth stating that either she or a member of her household had employer-sponsored health insurance (ESI) and therefore might be eligible for premium assistance to help pay for the cost. The appellant completed the Access to Employer-Sponsored Health Insurance Coverage form on June 28, 2023. Premium Assistance sent the appellant a qualifying event letter on July 14, 2023 which stated the appellant would be eligible for premium assistance when she enrolled in a family plan with her son.¹ The appellant had not heard from MassHealth or Premium Assistance so she contacted MassHealth and was told she needed to provide proof of her enrollment in her ESI. The appellant then submitted verifications indicating she and her son had enrolled in two separate individual private insurance plans and not together in a family plan. The appellant contacted Premium Assistance in August 2023 to inquire about the status of her application and was verbally told it was denied. The appellant was verbally informed of the reason for the denial in October 2023. The appellant requested MassHealth send a notice of the action in January, 2024 and MassHealth issued the January 31, 2024 denial notice which was appealed.

MassHealth provides premium assistance for individuals with ESI plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A). At the time of the MassHealth denial the appellant had no MassHealth eligibility as she did not meet any coverage type and was not enrolled in an ESI family plan with her son.

130 CMR 506.012: Premium Assistance Payments

(A) Coverage Types. Premium assistance payments are available to MassHealth members who are eligible for the following coverage types:

- (1) MassHealth Standard, as described in 130 CMR 505.002: *MassHealth Standard*, with the exception of those individuals described in 130 CMR 505.002(F)(1)(d);
- (2) MassHealth Standard for Kaileigh Mulligan, as described in 130 CMR 519.007: *Individuals Who Would Be Institutionalized*;
- (3) MassHealth CommonHealth, as described in 130 CMR 505.004: *MassHealth CommonHealth*;**

(C) Eligibility. Eligibility for MassHealth premium assistance is determined by the individual's coverage type and the type of private health insurance the individual has or has access to. MassHealth has three categories of health insurance for which it may

¹ The MassHealth Premium Assistance letter dated July 14, 2024 states:

"MassHealth has determined that you have health insurance available through a job in your family. This insurance meets MassHealth rules for Premium Assistance. The people listed [the appellant's son] must enroll in this insurance by September 17, 2023. [...]"

Once you enroll in this insurance, we will help to pay all or part of the premiums. While you enroll, you will continue to get medical services under MassHealth for up to 60 days starting on July 14, 2023 . **If the people listed on this letter do not enroll in a health insurance plan by September 17, 2023 , their MassHealth benefits may end."**

provide premium assistance.

(1) Employer-Sponsored Insurance (ESI) 50% Plans are employer-sponsored health-insurance plans to which the employer contributes at least 50% towards the monthly premium amount. **MassHealth provides premium assistance for individuals with ESI 50% Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A).**

130 CMR 506.011: MassHealth Premiums and the Children's Medical Security Plan (CMSP) Premiums

The MassHealth agency may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150% of the federal poverty level (FPL), as provided in 130 CMR 506.011. The MassHealth agency may charge a monthly premium to members of the Children's Medical Security Plan (CMSP) who have incomes at or above 200% of the FPL. MassHealth and CMSP premiums amounts are calculated based on a member's household modified adjusted gross income (MAGI) and their household size as described in 130 CMR 506.002 and 506.003 and the premium billing family group (PBFG) rules as described in 130 CMR 506.011(A). Certain members are exempt from paying premiums, in accordance with 130 CMR 506.011(J).

(A) Premium Billing Family Groups.

(1) Premium formula calculations for MassHealth and CMSP premiums are based on premium billing family groups (PBFG). A PBFG is comprised of

- (a) an individual;
- (b) a couple who are two persons married to each other according to the rules of the Commonwealth of Massachusetts and are living together; or
- (c) **a family who live together and consist of**
 - 1. **a child or children under the age of [REDACTED] any of their children, and their parents;**
 - 2. siblings under the age of [REDACTED] and any of their children who live together, even if no adult parent or caretaker is living in the home; or
 - 3. a child or children under the age of [REDACTED] any of their children, and their caretaker relative when no parent is living in the home. (*Emphasis added*).

Although the appellant and her representative argue the appellant was unaware she was required to enroll in a family plan maintaining she did not receive the MassHealth qualifying event letter dated July 14, 2023, the record establishes the qualifying event letter was properly addressed to the appellant at her current residence. Further, there is no evidence that the letter was returned as undelivered or that any subsequent letters from MassHealth were not received. While the appellant's representative is correct that appellant has the right to receive information about medical benefits and coverage type requirements (130 CMR 501.009)², in addition to the July 14,

² 130 CMR 501.009: Rights of Applicants and Members The policies of the MassHealth agency are administered in accordance with federal and state law. Applicants and members must be informed of their rights and

2023 letter the appellant was in contact with Premium Assistance on number of occasions beginning in July and could have requested assistance with her ESI, asked for an explanation of the denial or appealed the MassHealth action when she was verbally denied in August or October. Lastly, MassHealth does have the obligation to provide applicants and members written notice of their eligibility determination (130 CMR 502.008)³; however a delay in receiving a notice of denial of benefits cannot make an individual eligible for assistance that they are not entitled to receive.

At the time of the MassHealth action the appellant was ineligible for premium assistance as she was not enrolled in a family plan with her son and therefore MassHealth correctly determined the appellant did not qualify for premium assistance benefits and this appeal is denied.

Since the MassHealth denial of Premium Assistance benefits is upheld any discussion regarding retroactive benefits or out of pocket expenses is moot.

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.


Brook Padgett
Hearing Officer
Board of Hearings

responsibilities with respect to MassHealth. (D) Right to Information. Persons who inquire about MassHealth, either orally or through a written request, have the right to receive information about medical benefits, coverage type requirements, and their rights and responsibilities as applicants and members of MassHealth.

³ 130 CMR 502.008: Notice (A) The MassHealth agency provides all applicants and members a written notice of the eligibility determination for MassHealth. The notice contains an eligibility decision for each member who has requested MassHealth, and either provides information so the applicant or member can determine the reason for any adverse decision or directs the applicant or member to such information. (B) The MassHealth agency also provides members a notice, in accordance with 130 CMR 610.015: *Time Limits*, of any loss of coverage, or any changes in coverage type, premium, or premium assistance payments.

cc:

MassHealth representatives: Springfield MEC, Odilia Ruiz, MassHealth Premium Assistance, 55 Summer Street, 8th floor, Boston, MA 02110

A large black rectangular redaction box covers the text in the 'cc:' field, obscuring the names and contact information of the MassHealth representatives.