

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**

[REDACTED]  
[REDACTED]  
[REDACTED]

<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2405236
<b>Decision Date:</b>	08/16/2024	<b>Hearing Date:</b>	06/04/2024
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	07/02/2024

**Appearances for Appellant:**

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED]

**Appearance for MassHealth:**

Timothy O'Donnell, Tewksbury 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Eligibility
<b>Decision Date:</b>	08/16/2024	<b>Hearing Date:</b>	06/04/2024
<b>MassHealth's Rep.:</b>	Timothy O'Donnell	<b>Appellant's Reps.:</b>	<div>██████████</div> <div>██████████████████</div>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center (Telephone)	<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 a notice dated February 1, 2024, MassHealth approved the Appellant for MassHealth CommonHealth starting on November 17, 2023.<sup>1</sup> Exhibit 1 and 130 CMR 505.004(G). The Appellant's representative filed an appeal on April 2, 2024, stating that the Appellant was seeking Massachusetts Behavioral Health Partnership (MBHP) coverage. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved the Appellant for MassHealth CommonHealth starting on November 17, 2023.

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<sup>1</sup> The notice also states that the Appellant's father will receive a \$83.20 bill for a monthly premium beginning in March 2024. Exhibit 1. (The Appellant is a minor child). The CommonHealth premium was not disputed.

## Issue

The appeal issue is what MassHealth coverage the Appellant had, and during which time frame.

## Summary of Evidence

The hearing was held by telephone. A summary of the testimony and record evidence follows: The MassHealth eligibility representative testified that the Appellant has a verified disability and a household size of two, consisting of the Appellant and his father and that the household income was 319% of the federal poverty level. The Appellant is a minor child and was represented by his father, who verified his son's identity. The Appellant's representative explained that the Appellant received MassHealth while the Appellant received Supplemental Security Income (SSI) through the Social Security Administration (SSA). In April 2023, the Appellant's SSI benefits ended, but the Appellant continued to be eligible for MassHealth. The Appellant was previously enrolled in MBHP and the Appellant's representatives explained that they called MassHealth customer service multiple times, but that the representatives they spoke with could not add MBHP to the Appellant's designation, until a representative was able to in November 2023. The Appellant's representative explained that MassHealth paid for the Appellant's after-school therapy, through a provider called Embracing the Creative Child. On February 8, 2024, Embracing the Creative Child sent a letter stating that the Appellant had a lapse in coverage from April 19, 2023, until July 1, 2023, and that the balance owed to Embracing the Creative Child was \$6,362.79. Exhibit 2.

The record was held open to clarify the hearing officer's questions regarding the history of the Appellant's MassHealth coverage. On June 14, 2024, the MassHealth eligibility representative stated that from October 1, 2016, until April 17, 2023, the Appellant received MassHealth Standard as a benefit through his SSI administered by the Social Security Administration. Exhibit 7. From April 1, 2023, until January 19, 2024, the Appellant's MassHealth Standard benefit continued, as a transitional medical assistance reinstate benefit. *Id.* And from November 17, 2023, to the present, the Appellant had MassHealth CommonHealth. *Id.*

## Findings of Fact

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

1. The Appellant is a minor child and has a household size of two. Testimony, Exhibits 1 & 4.
2. The Appellant has a verified disability. Testimony.
3. The Appellant has been eligible for MassHealth CommonHealth since November 17, 2023. Exhibits 1, 4, & 7.

4. From October 1, 2016, until April 17, 2023, the Appellant received MassHealth Standard as an SSI recipient through the Social Security Administration. From April 1, 2023, until January 19, 2024, the Appellant's MassHealth Standard benefit continued, as a transitional medical assistance reinstate benefit. Exhibits 4 & 7.

## Analysis and Conclusions of Law

MassHealth regulations provide:

### 450.203: Payment in Full

(A) Federal and state laws require that participation in MassHealth be limited to providers who agree to accept, as payment in full, the amounts paid in accordance with the applicable fees and rates or amounts established under a provider contract or regulations applicable to MassHealth payment. (See 42 CFR 447.15 and M.G.L. c. 118E, § 36.) No provider may solicit, charge, receive, or accept any money, gift, or other consideration from a member, or from any other person, for any item or medical service for which payment is available under MassHealth, in addition to, instead of, or as an advance or deposit against the amounts paid or payable by the MassHealth agency for such item or service, except to the extent that the MassHealth regulations specifically require or permit contribution or supplementation by the member or by a health insurer.

(B) If the provider receives payment from a member for any service payable under MassHealth without knowing that the member was a MassHealth member at the time the service was provided, the provider must, upon learning that the individual is a MassHealth member, immediately return all sums solicited, charged, received, or accepted with respect to such service.

130 CMR 450.203.

### 505.004: MassHealth CommonHealth

#### (A) Overview.

(1) 130 CMR 505.004 contains the categorical requirements and financial standards for CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.

(2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): *MassHealth CommonHealth*.

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(G) Disabled Children Younger than 18 Years Old. Disabled children younger than 18 years old must meet the following requirements:

(1) be permanently and totally disabled, as defined in 130 CMR 501.001: *Definition of Terms*;

- (2) be ineligible for MassHealth Standard; and
- (3) be a citizen as described at 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrant, or a nonqualified PRUCOL, as described in 130 CMR 504.003: *Immigrants*.

(J) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits, in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by the MassHealth agency in accordance with 130 CMR 505.002(O) and 130 CMR 506.012: *Premium Assistance Payments*. Members must access those other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

(K) Access to Employer-sponsored Health Insurance and Premium-assistance Investigations for Individuals Who Are Eligible for MassHealth CommonHealth.

(1) MassHealth may perform an investigation to determine if individuals receiving MassHealth CommonHealth

- (a) have health insurance that MassHealth may help pay for; or
- (b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

(2) The individual receives MassHealth CommonHealth while MassHealth investigates the insurance.

(a) Investigations for Individuals Who Are Enrolled in Health Insurance.

1. If MassHealth determines that the health insurance that the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth CommonHealth Premium Assistance as described at 130 CMR 506.012: *Premium Assistance Payments*.

2. If MassHealth determines that the health insurance that the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual continues to be eligible for MassHealth CommonHealth.

(b) Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance.

1. If MassHealth determines that the individual has access to employer-sponsored health insurance, the employer is contributing at least 50% of the premium cost, and the insurance meets all other criteria described in 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides premium assistance payments as described in 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance

plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 19 years old, the individual is 19 or 20 years old, and has household income less than or equal to 150% of the federal poverty level, or is pregnant.

2. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth CommonHealth.

130 CMR 505.004(A), (G), (J), (K).

As the hearing officer, my jurisdiction is limited to the MassHealth CommonHealth approval notice, dated February 1, 2024, though, as stated above, the Appellant's representatives do not challenge the Appellant's CommonHealth premium. I do not have jurisdiction over the Embracing the Creative Child notice. For the record, I note that the Appellant had continuous comprehensive insurance coverage through MassHealth from October 2016 until present. Exhibits 4 & 7. Accordingly, the Appellant did not have a lapse in MassHealth insurance coverage in 2023. As the Appellant was a MassHealth member, a provider should not bill the Appellant for covered services. 130 CMR 450.203. The provider is advised to contact MassHealth with regard as to how to bill claims incurred by the appellant for the period April 19, 2023 to July 2, 2023, as the appellant had MassHealth coverage during that time.

Because MassHealth did not err in issuing the February 1, 2024, notice, the 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.

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Emily Sabo  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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

Premium Assistance