

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2405359
Decision Date:	06/28/2024	Hearing Date:	05/09/2024
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Fabienne Jeanniton - MEC
Carmen Fabery - Premium Billing
Roxana Noriega – Premium Assistance



*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:	DENIED	Issue:	Tax Intercept
Decision Date:	06/28/2024	Hearing Date:	05/09/2024
MassHealth's Rep.:	Fabienne Jeanniton	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MEC		

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 March 25, 2024, the Massachusetts Department of Revenue (DOR) informed Appellant that a portion of her state income tax refund was being intercepted by the Executive Offices of Human Services to satisfy an outstanding debt with MassHealth ([Exhibit A](#)). Appellant filed this appeal in a timely manner on April 4, 2024 (see 130 CMR 610.015(B) and [Exhibit A](#)). Intercepting a tax refund to recoup a debt constitutes grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

The Massachusetts Department of Revenue intercepted a portion of Appellant's tax refund to recoup a debt owed to MassHealth.

Issue

The appeal issue is whether MassHealth and the DOR properly applied the controlling regulation(s) to accurate facts when DOR intercepted a portion of Appellant's tax refund to recoup a debt owed to MassHealth.

Summary of Evidence

Both parties appeared by telephone.

MassHealth was represented by workers from the Tewksbury Enrollment Center, the Premium Assistance Unit and the Premium Billing Unit. The Masshealth representatives testified that on February 6, 2023, MassHealth issued a notice to Appellant informing her that CommonHealth (CH) benefits had been approved for a member of her family as of March 1, 2023 with a monthly premium of \$357.00. Premium bills issued in June and July 2023. The July 2024 bill showed that a total of \$714.00 was due for two premiums of \$357 each for the current month and the previous month.¹ On July 18, 2024, Appellant called MassHealth to cancel the CH coverage. CH coverage ended on the last day of July 2024.

The Masshealth representatives explained that because the request to cancel coverage was made after 90 days of the February 6, 2024 approval notice, the accrued premiums could not be waived. The Masshealth representatives testified that the overdue premiums were reported to DOR which recouped the debt along with a fee which fully satisfied the debt.

Appellant did not dispute that she did not pay the premiums. Appellant testified that CH benefits were meant only for her autistic daughter and were never used because they were only secondary insurance (see also, written statement, Exhibit A, page 1b). Additionally, the daughter was residing out of state for the entire time that the CH coverage was in effect. Appellant noted that she has a second child with an eating disorder and asked whether any “courtesy or consideration” could be granted to refund the tax intercepted amount back to her. Lastly, Appellant commented that she understood that the Commonwealth needed the money to send to Israel to support the war in Gaza.

Findings of Fact

By a preponderance of the evidence, this record supports the following findings:

1. On February 6, 2023, MassHealth issued a notice to Appellant informing her that CommonHealth (CH) benefits had been approved for Appellant’s autistic daughter as of March 1, 2023 with a monthly premium of \$357.00.
2. Premium bills were issued to Appellant in June and July 2023.
3. The July 2024 bill, which Appellant received, showed that a total of \$714.00 was due for

¹ Appellant sent a copy of this bill to the Board of Hearings along with her Fair Hearing Request (see, Exhibit A, page 4)

two premiums of \$357 each for the current month and the previous month.

4. On July 18, 2024, Appellant called MassHealth to cancel the CH coverage and CH coverage ended on the last day of July 2024.
5. Appellant did not pay the July 2024 bill.
6. Masshealth reported the overdue premiums to DOR which recouped the entire debt, along with a fee, by intercepting a portion of Appellant's state tax refund (Exhibit A, page 2).

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

If Appellant wanted to dispute the need to pay the July 2023 bill, she had 60 days to file for an appeal on that matter (130 CMR 610.015(B)(1)). There is no evidence in this record that such an appeal was ever filed. Accordingly, the action at issue is MassHealth's reporting to the Department of Revenue that the debt was still owed and the recoupment of that debt through an intercept of Appellant's state tax refund that was noticed on April 4, 2024.

The record shows that MassHealth notified Appellant in writing that she owed the two premium payments for June and July 2023 (Exhibit A, page 4). Appellant did not dispute that her daughter had coverage, although she asserted that it was never used. Appellant also did not dispute that she never paid the premiums that were billed to her in July 2023.

A lack of claims does not entitle one to a premium refund. No one expects the return of premiums for private health insurance for those months or years in which no claims were made. Premiums are not based on use, they are based on coverage, whether claims were filed or not.

This record provides no basis in fact or law to support reversing or modifying the actions of MassHealth and DOR which were made in compliance with M.G.L. c.7A, C.62D and 815 CMR 9.00.

For the foregoing reasons, 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

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

MassHealth Representative: Premium Assistance, Appeals Coordinator

MassHealth Representative: Premium Billing., Appeals Coordinator