

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2405588
Decision Date:	5/24/2024	Hearing Date:	05/16/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Chanthy Kong (Tewksbury MEC) & 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:	Approved	Issue:	Termination
Decision Date:	5/24/2024	Hearing Date:	05/16/2024
MassHealth's Rep.:	Chanthy Kong (Tewksbury MEC) & Roxana Noriega (Premium Assistance)	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	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 March 8, 2024, MassHealth determined that the appellant has insurance available through her job that meets the rules for MassHealth Premium Assistance and eligible family members must enroll in this insurance or their MassHealth benefits may end. (130 CMR 503.007; Exhibit 1). The notice also states that the appellant will be eligible for Premium Assistance once she enrolls in this insurance and MassHealth will pay all or part of the premium. (130 CMR 506.012).

The Board of Hearings received a request for hearing on April 9, 2024. (130 CMR 610.000; Exhibit 2). The Board of Hearings dismissed the appeal as the applicant or member did not sign the request for hearing form. (130 CMR 610.035; Exhibit 3). On April 15, 2024, the Board of Hearings received a signed copy of the request for hearing form. (Exhibit 4). The Board of Hearings vacated the dismissal and scheduled a hearing for May 15, 2024. (130 CMR 610.035(B); 610.048(C)).

An agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that family members eligible for her employer-sponsored insurance must enroll in this insurance or their MassHealth benefits may end. (130 CMR 503.007).

Issue

Whether MassHealth was correct in determining that they may end benefits for the appellant's family members who qualify for her employer-sponsored insurance.

Summary of Evidence

All parties appeared by telephone. MassHealth had representatives from the Tewksbury MassHealth Enrollment Center (Tewksbury MEC) and Premium Assistance Unit (PAU) present at hearing. The representative from the Tewksbury MEC testified that the appellant is a member of a family group of three that includes herself and two children. The appellant's family group of three has a monthly income of \$2,428.04. This income is below 133% of the federal poverty level making the appellant's family eligible for MassHealth Standard. The Tewksbury MEC representative testified that every applicant and member must obtain and maintain available health insurance as MassHealth is a payor of last resort. Failure of a member to obtain and maintain available health insurance may result in a loss or denial of eligibility.

The PAU representative testified that the appellant's employer-sponsored insurance meets the minimum credible coverage (MCC) requirements to qualify for premium assistance payments. The PAU representative testified that MassHealth will pay 100% of the appellant's premiums. The PAU representative noted that members receive premium assistance payments one month in advance of their premium payment. The PAU representative testified that for the first month of enrollment, a member will receive 2 payments to ensure coverage for the first month of enrollment and an advance payment for the second month. The appellant will continue to receive payments one month in advance.

The appellant did not dispute the fact that her employer offers insurance and she is not enrolled in a plan through her employer. The appellant testified that enrolling in this plan may require her to change providers and several under this new plan are not taking new patients or do not have appointments available for a few months. The appellant testified that several of her current providers do not accept this other insurance. The appellant stated that it is a hardship for her to enroll in this other plan and wanted MassHealth to continue coverage without requiring her to enroll in this other plan. The appellant testified that she is pregnant.

Findings of Fact

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

1. At the time of the eligibility decision, the appellant had a family group of 3 that included herself and two children.
2. The appellant's family group has a monthly gross income of \$2,428.
3. The appellant is eligible for and receives MassHealth Standard.
4. The appellant has access to private insurance.
5. The private insurance meets the requirements for the appellant to receive premium assistance.
6. Premium assistance will cover 100% of the monthly premium for the private insurance.
7. As of the hearing date, the appellant had not enrolled in the private insurance.
8. At the hearing the appellant reported that she is pregnant.

Analysis and Conclusions of Law

MassHealth Standard serves children, young adults, parents, caretaker relatives, pregnant women, disabled individuals and others who meet the income and categorical requirements. (130 CMR 505.002). The appellant is pregnant and at the time of the decision on appeal, MassHealth had records of the appellant having two children under the age of 18.

A child one through 18 years old is eligible for MassHealth Standard coverage if:

1. the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 150% of the federal poverty level; and
2. the child is a citizen as described in 130 CMR 504.002: U.S. Citizens or a lawfully present immigrant as described in 130 CMR 504.003(A): Lawfully Present Immigrants. (130 CMR 505.002(B)(2)(a)).

A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if:

- (a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

- (b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and
- (c) 1. the parent lives with their children, and assumes primary responsibility for the child's care, in the case of a parent who is separated or divorced, has custody of their children, or has children who are absent from home to attend school; or
 - 2. the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M). (130 CMR 505.002(C)).

A person who is pregnant is eligible for MassHealth Standard coverage if:

- (a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 200% of the federal poverty level (FPL); and
- (b) the individual is a citizen as described in 130 CMR 504.002: U.S. Citizens, lawfully present immigrant, nonqualified PRUCOL, or other noncitizen as described in 130 CMR 504.003: Immigrants. (130 CMR 505.002(D)(1)).

In determining the MassHealth MAGI household size, the unborn child or children are counted as if born and living with the mother. (130 CMR 505.002(D)(2)). Eligibility, once established, continues for the duration of the pregnancy. (130 CMR 505.002(D)(3)). Eligibility for postpartum care for pregnant individuals who meet the requirements of 130 CMR 505.002(B)(2) and (3), (C) through (H), and (L) continues for 12 months following the termination of the pregnancy plus an additional period extending to the end of the month in which the 12-month period ends. (130 CMR 505.002(D)(4)).

Based on the information MassHealth had at the time of the hearing, the appellant had a family group of three including herself and two children. The appellant's income of \$2,428 is below 133% of the federal poverty level for a family group of three. Adding the unborn child increases the amount of allowable income in determining eligibility. The appellant's income of \$2,428 is below 100% of the federal poverty level for a family group of four. The appellant and her children are eligible for MassHealth Standard both prior to and at hearing, (130 CMR 505.002(B); 130 CMR 505.002(C); 130 CMR 505.002(D)).

MassHealth is the payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law. (130 CMR 503.007). Every applicant and member must obtain and maintain available health insurance in accordance with 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types. (130 CMR 503.007(A)). Failure to do so may result in loss or denial of eligibility unless the applicant or member is:

- (1) receiving MassHealth Standard or MassHealth CommonHealth; and
- (2) younger than 21 years of age or pregnant. (130 CMR 503.007(A)).

MassHealth does not pay for any health care and related services that are available:

- (1) through the member's health insurance, if any; or
- (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services.

As the appellant reported a pregnancy at hearing and the other members of the appellant's family group are younger than 21 years of age, at this time, the appellant is not required to enroll in employer-sponsored insurance. However, the appellant should be aware that she may be required to do so in the future, regardless of having to possibly change providers as that is not a factor in the agency's decision to require a member to enroll in employer-sponsored insurance.

Based upon testimony and evidence presented at hearing, this appeal is approved.

Order for MassHealth

Rescind the notice on appeal and continue the appellant's MassHealth Standard coverage based upon the appellant's reported pregnancy, the age of the children and reported income.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

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