

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2405841
Decision Date:	07/18/2024	Hearing Date:	05/29/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Sherrienne Paiva – Taunton MEC
Karisha Raja – Premium Billing



*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 in part; Denied in part	Issue:	Premium Billing; Tax Intercept
Decision Date:	07/18/2024	Hearing Date:	05/29/2024
MassHealth's Reps.:	Sherrienne Paiva; Karishma Raja	Appellant's Rep.:	Pro se
Hearing Location:	Telephonic	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 of Refund Applied to Debt or Transferred dated March 29, 2024, \$249 of the appellant's tax return was intercepted by the Department of Revenue. (Exhibit 3, pp. 4-5; 815 CMR 9.00.) The appellant filed this appeal in a timely manner on April 10, 2024. (Exhibit 1; 130 CMR 610.015(B); Exhibit 3, p. 4.) Agency actions to recover money owed are grounds for appeal. (130 CMR 610.032; see also Exhibit 3, pp; 4 ("You have the right to contest the amount of the debt that resulted in this intercept by applying in writing for a hearing."); 815 CMR 9.03; 9.10.)

Action Taken by MassHealth

MassHealth asked the Department of Revenue to intercept the appellant's tax refund in order to recover money the appellant owed for past-due Family Assistance premiums on behalf of his children.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in referring the appellant to the State Intercept Program for the amount of \$224.¹

Summary of Evidence

The appellant has two minor children. His children were briefly covered by Family Assistance benefits in 2018, but they were downgraded to the Children's Medical Security Program ("CMSP") when the household income went above programmatic limits for MassHealth coverage. MassHealth's representatives could see a telephonic application filed on March 31, 2021, but the children were again approved for CMSP coverage at the time based upon household income. This was the last time the appellant's household applied for MassHealth benefits. Thereafter, the appellant's family moved, and they have been covered by private, employer-sponsored insurance. The appellant did not tell MassHealth that he moved, because he had not been covered by MassHealth benefits at the time.

On or around October 2, 2022, MassHealth's computer system auto-renewed the appellant's household based upon available data-match information. MassHealth determined the household's income to be equivalent to 293% of the federal poverty level, and the appellant's children were approved for Family Assistance coverage with a monthly premium of \$56 per month for both children. The appellant never received this notice because it was mailed to his old address.

To further complicate matters, MassHealth was not sending out premium bills while federal protections were in place during the Federal Public Health Emergency ("FPHE") related to Covid-19. The FPHE ended in April 2023. MassHealth started sending the appellant bills in May, but to his old address. The appellant was billed for June, July, August, and September before MassHealth terminated the children's coverage through a notice dated October 4, 2023. Thereafter, the agency referred the debt to the Department of Revenue ("DOR") for collection. MassHealth's Premium Billing representative testified that the amount owed to MassHealth was \$224, for four months of unpaid premiums. She did not know why the appellant was billed for four months before the coverage was terminated, and she did not identify any administrative fees charged by MassHealth for their part of the collection of this debt. Per regulation, benefits should be terminated after two months of unpaid premiums.

¹ The State Intercept Program claims that it charged the appellant a \$10 administrative fee for transferring \$239 of his refund to the Executive Office of Health and Human Services. This notice goes on to state that a "processing fee up to \$25.00 may be deducted from your refund." (Exhibit 3, p. 4.) It is unclear whether DOR charged the appellant \$10 or \$25, or if the additional \$15 was also transferred to the Executive Office of Health and Human Services.

MassHealth's eligibility representative testified that once a household has applied for MassHealth coverage, MassHealth will attempt to automatically renew their eligibility every year until they affirmatively withdraw from coverage. MassHealth's eligibility representative testified that the appellant's income remains between 250% and 300% of the federal poverty level. The appellant did not dispute this, but he requested to withdraw his application for MassHealth benefits.

Findings of Fact

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

- 1) The appellant is the head of household for a family with two children. (Testimony by MassHealth's representatives.)
- 2) The appellant applied for MassHealth benefits on or around March 31, 2021. The appellant's children were determined to be eligible for the CMSP. (Testimony by MassHealth's representatives.)
- 3) Thereafter, the appellant moved. He did not notify MassHealth because no one in his household was covered by MassHealth. (Testimony by the appellant.)
- 4) On or around October 2, 2022, MassHealth's computer system was able to automatically redetermine the appellant's household's eligibility. The appellant's children were approved for Family Assistance with a \$56 per month premium. (Testimony by MassHealth's representatives; Exhibit 6, pp. 8, 11.)
- 5) MassHealth was not billing members for coverage at the time due to federal protections in place during the FPHE related to Covid-19. (Testimony by MassHealth's representatives.)
- 6) The FPHE for Covid-19 was lifted in April 2023. In May, MassHealth mailed a bill to the appellant at his old address for the June premium. After four premiums went unpaid, MassHealth terminated the Family Assistance benefits in October 2023 and referred a debt of \$224 to the Department of Revenue. (Testimony by MassHealth's representative.)
- 7) The appellant's household income was between 250% and 300% of the federal poverty level at the time he was being billed for Family Assistance benefits. (Testimony by MassHealth's representative and the appellant.)
- 8) Through a Notice of Refund Applied to Debt or Transferred dated March 29, 2024, \$249 of the appellant's tax return was intercepted by the Department of Revenue. (Exhibit 3, pp. 4-5.)
- 9) The Department of Revenue applied \$239 of the intercepted refund to a debt owed to MassHealth and applied \$10 to a processing fee. (Exhibit 3, p. 4.)

Analysis and Conclusions of Law

After a member or applicant has applied for MassHealth benefits, MassHealth

reviews eligibility once every 12 months. Eligibility may also be reviewed as a result of a member's change in circumstances, or a change in MassHealth eligibility rules, or as a result of a member's failure to provide verification within requested time frames. The MassHealth agency updates eligibility based on information received as a result of such review. The MassHealth agency reviews eligibility ... by information matching with other agencies, health insurance carriers, and information sources

(130 CMR 502.007(A)(1).)

If a household's "continued eligibility can be determined based on electronic data matches with federal and state agencies," the household "will have their eligibility automatically renewed." (130 CMR 502.007(C)(1).) If the automatic renewal "results in no change in benefits or in a more comprehensive benefit for all members of the household, the MassHealth agency will notify the head of household that eligibility has been reviewed using the automatic renewal process." (130 CMR 502.007(C)(1)(a).) Only where an automatic renewal results in a "downgrade" would MassHealth require the household complete a renewal application. (130 CMR 502.007(C)(1)(b); see also 502.007(C)(3) (MassHealth automatically implements benefits upgrades based on data match information).)

Certain MassHealth benefits require that the member pay a monthly premium, when the member's income is above certain guidelines. (See 130 CMR 506.011.) MassHealth allows a member "60 calendar days from the date of the eligibility notice and premium notification" to voluntarily withdraw from benefits, and if they do so "MassHealth premiums are waived." (130 CMR 506.011(C)(5).) Furthermore, it is the member's responsibility to notify MassHealth of their intention to "withdraw from receiving MassHealth coverage," and the "member is responsible for the payment of all premiums up to and including the calendar month of withdrawal, unless the request for voluntary withdrawal is made in accordance with 130 CMR 506.011(C)(5)." (130 CMR 506.011(H).)

Family Assistance for Children has tiered premiums based upon the household's percentage of the federal poverty level. For households with income above 250% to 300% of the federal poverty level, the monthly premium is "\$28 per child." (130 CMR 506.011(B)(3).) If "the member does not pay the entire amount billed within 60 days of the date on the bill, the member's eligibility for benefits is terminated." (130 CMR 506.011(D)(1).) If a premium remains unpaid for 150 days, MassHealth may refer the member "to the State Intercept Program (SIP) in compliance with 815 CMR 9.00: *Collection of Debts*." (130 CMR 506.011(D)(3).)

It is undisputed that the appellant did not seek to withdraw from the Family Assistance benefits within 60 days of the October 2022 notice, which he did not receive. Furthermore, it is undisputed that the appellant never received the premium-bills, and they remained unpaid for 60 (and ultimately 150) days. Because it was ultimately the appellant's responsibility to either withdraw his application or update his mailing address with MassHealth, the agency acted correctly to refer the debt to the SIP. This appeal must be DENIED in part.

However, MassHealth's representative agreed that the Family Assistance benefit should have been terminated after the first bill went unpaid for 60 days. (See 130 CMR 506.011(D)(1).) MassHealth should only have referred \$112 ($\$28 \times 2 = \$56 \times 2 = \112) to SIP. The SIP notice affords the appellant an opportunity to dispute the debt amount at a "Hearing" before the relevant "Billing Entity."² (See 815 CMR 9.02-9.03.) This appeal is APPROVED in part with regards to the amount of the debt owed to MassHealth. Since MassHealth received \$239 from DOR, the agency owes the appellant \$127. (See 815 CMR 9.07(3) (Billing Entity is responsible for reconciling intercepts, including fees).) This appeal is APPROVED in part with regards to the difference between the amount owed MassHealth for two months of Family Assistance premiums (\$112) and the amount DOR intercepted on the appellant's behalf (\$139).³

Order for MassHealth

Reimburse the appellant \$127; the difference between the \$239 intercepted on MassHealth's behalf and the \$112 the appellant owes for two months of unpaid Family Assistance premiums.

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.

² MassHealth makes no argument that its obligation to provide a "Hearing" pursuant to 815 CMR 9.03 were satisfied by the appeal rights afforded on the original approval or termination notices sent in October 2022 and October 2023.

³ This decision takes no position on the \$10 "Fee Applied" by DOR. (See Exhibit 3, p. 4.)

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21
Spring St., Ste. 4, Taunton, MA 02780
MassHealth Representative: Premium Billing