

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied in part; Approved in part; Remanded	Appeal Number:	2405885
Decision Date:	5/22/2024	Hearing Date:	05/15/2024
Hearing Officer:	Radha Tilva		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kristine Angelari, Tewksbury MEC Rep.



*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 in part; Approved in part; remanded	Issue:	Eligibility – under 65 - income
Decision Date:	5/22/2024	Hearing Date:	05/15/2024
MassHealth's Rep.:	Kristine Angelari	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center	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 April 1, 2024, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that appellant is over the income limit (Exhibit 1). The appellant filed this appeal in a timely manner on April 12, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

At the scheduled hearing on May 15, 2024, the MassHealth representative stated that the appellant's MassHealth CarePlus benefits were terminated on April 10, 2024. Pursuant to MassHealth's Fair Hearing Rules, the Board of Hearings (BOH) must receive a request for a fair hearing "120 days from . . . (c) the date of MassHealth agency action *when the MassHealth agency fails to send written notice of the action . . .*" See 130 CMR 610.015(B)(2) (emphasis added). Accordingly, appellant's April 12, 2024 fair hearing request was received within the allowable time to challenge MassHealth's April 10, 2024 termination of benefits (See id.¹). The hearing record was opened by the hearing officer to have the MassHealth representative send a copy of the notice prompting the termination. MassHealth responded and stated that the denial

¹ As this decision states herein, appellant sufficiently demonstrated that MassHealth did not provide adequate notice of the April 10, 2024 termination date.

letter sent out on April 1, 2024 was the termination letter, even though they did not explicitly state they were going to terminate appellant's benefits, MassHealth's back office did on April 10, 2024 (see Exhibit 5).

Action Taken by MassHealth

MassHealth terminated appellant's MassHealth CarePlus benefit on or around April 10, 2024 and denied appellant MassHealth benefits on April 1, 2024 because her income exceeded the MassHealth income limit.

Issue

The appeal issues are: (1) whether MassHealth appropriately terminated appellant's benefit on April 10, 2024; and (2) whether MassHealth appropriately denied appellant's renewal application for MassHealth benefits based on its determination that her income exceeded program limits.

Summary of Evidence

The MassHealth representative that appeared stated that a notice was issued to the appellant with a MassHealth Care Plus benefit ending April 10, 2024. The MassHealth representative explained that a renewal application was submitted and the income and household size changed which was what prompted April 1, 2024 notice. MassHealth has a household size of one, with disability income being \$2,542.80 monthly and federal poverty level being at 197.61% in the system. The MassHealth representative explained that, in order to receive MassHealth Standard or CarePlus benefits, the income has to be below 133% of the federal poverty level which equals \$1,670.00 a month. The representative stated that the MassHealth system showed that she was a non-tax-filer which made her ineligible for a Health Connector plan. The appellant applied for disability through MassHealth and a decision is still pending from Disability Evaluation Services (MassHealth testimony). The MassHealth representative stated that she would remove the non-tax-filer status in the system which would allow her to pick a plan once her primary disability insurance ended.

The appellant stated that she has had roughly the same income from disability since 2022 and does not understand what has changed. The appellant submitted a disability application a couple of weeks prior to MassHealth. The appellant further stated that she is a tax filer. The appellant explained that when she did her renewal application she listed her son and when she was denied she was told to take him off the household. The appellant further testified that she has primary insurance but needs MassHealth to help assist her with her copayments, co-insurance, and deductibles. The appellant goes to see her medical providers multiple times a week and is on 14 different medication all of which have co-payments. The appellant stated that she hasn't been

able to get her medications. The appellant also stated that she spoke with someone at MassHealth and they told her that she would have her benefits until April 24, 2024 and asked her if she would like to keep her benefits through the appeal to which appellant replied yes.

At the end of the hearing, the record was held open for the MassHealth representative to send a copy of the termination notice. The MassHealth representative could not find one in the system but stated that the April 1, 2024 notice indicates the appellant is over income and is not eligible for MassHealth so “in the back office the end date is April 10, 2024 but is not printed on the letter that goes out” (Exhibit 5).

Findings of Fact

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

1. Appellant was previously receiving MassHealth CarePlus benefits.
2. Appellant submitted a renewal and was denied MassHealth benefits on April 1, 2024.
3. MassHealth terminated appellant’s MassHealth CarePlus benefits on or around April 10, 2024, but did not send notice of the termination.
4. Appellant appealed the denial notice on April 12, 2024 and requested that her benefits remain in place.
5. The appellant has a household size of one, with a gross monthly income of \$2,542.80 from disability.
6. The income limit for a household size of one is 133% of the federal poverty level or \$1,670.00.
7. The appellant has another primary health insurance, but would like to continue receiving MassHealth to assist her with her copayments, coinsurance and deductibles.
8. The appellant has applied for disability through MassHealth.

Analysis and Conclusions of Law

The issues on appeal are: (1) whether MassHealth correctly determined, pursuant to its April 1, 2024 notice, that appellant did not qualify for benefits because her income exceeded program limits, and (2) whether MassHealth erroneously terminated appellant’s pre-existing coverage on April 10, 2024 pursuant to its April 1, 2024 denial notice.

1. Eligibility for MassHealth Benefits

As a disability determination has not yet been made, appellant is presently only categorically eligible for MassHealth Standard/CarePlus benefits. To qualify for MassHealth Standard or MassHealth CarePlus, individuals under the age of ■ who are parents such as appellant, must have modified adjusted gross income (MAGI) at or below 133% of the federal poverty level (FPL) (See 130 CMR 505.002(C) and 505.008(A)(2)(c)). It was undisputed that the household size was now one for the appellant. 133% of the federal poverty level for a household size of one is \$1,670.00. The appellant receives long-term care disability income in the amount of \$2,542.80 monthly which is well over this threshold. Based on the above, MassHealth did not err in denying appellant's renewal application for MassHealth benefits in its April 1, 2024 notice.

However, the appellant has claimed that she is disabled and has a disability application currently pending with MassHealth. If she is found disabled she may be eligible for MassHealth CommonHealth. Because the issue of her disability has not been resolved, her MassHealth benefits should continue to be protected pending the outcome of MassHealth's disability determination.

2. Termination of Benefits

The evidence shows that MassHealth prematurely and thus, erroneously, terminated appellant's coverage on April 10, 2024 by failing to provide her with adequate notice of her coverage end date.

At hearing, appellant provided credible testimony indicating that MassHealth never sent notice that her coverage would end on April 10, 2024. Through the record open process MassHealth attempted to find evidence that it notified appellant of the April 10, 2024 termination. Despite its search, MassHealth was unable to locate any such evidence. While it is indeed MassHealth's practice to send advance notice of an upcoming change in eligibility, there is nothing in the record to suggest MassHealth, in this instance, followed this practice.

Federal and state regulations require that all state Medicaid agencies, such as MassHealth, provide individuals with advance written notice of any action relating to their eligibility, including notice of a termination, reduction, or suspension of benefits (See 42 C.F.R. § 435.917; see also 130 CMR §§ 502.008, 516.008). The contents of the notice must include, among other required information, a statement of what action the agency intends to take and the effective date of such action; a clear statement of the specific reasons supporting the intended action; and the individual's right to request a hearing (See 42 CFR § 431.210; see also 130 CMR 610.026). Typically, the agency must send notice at least 10-days before the date of the intended action (See 42 C.F.R. § 431.211 and 130 CMR 610.015(A)). In addition to its standard 10-day notice requirement, MassHealth implements a heightened 14-day notice requirement

for actions involving the loss of a member's coverage, as indicated as follows:

(D) End Date of Coverage. Except as specified in 130 CMR 502.003(H)(2),² ***MassHealth benefits terminate or downgrade no sooner than 14 days from the date of termination or downgrade notice.***

(Emphasis added. See 130 CMR 502.006(D); see also 130 CMR 516.006). The fourteen day rule is also outlined at 130 CMR 502.006(B)(3) which states that for existing members whose eligibility determination results in a less comprehensive benefit, the end date of the existing coverage is no sooner than 14 days from the date of the notice unless the MassHealth member files an appeal in a timely manner and requests continued MassHealth benefits pending such an appeal or reinstatement of benefits.

The denial notice was sent on April 1, 2024 stating that the appellant was not eligible for MassHealth benefits. No termination date was listed in the denial notice. As provided in 130 CMR 502.006(D) and 130 CMR 506.002(B)(3) above, the 14-day advance notice requirement is effectively a prerequisite the agency must satisfy before it can reduce or terminate a member's benefit. Because MassHealth did not complete this necessary procedural step, its April 10 2024 termination of appellant's coverage was erroneous.

Because the contents of the April 1, 2024 notice provided an adequate explanation of why appellant no longer qualified for benefits, MassHealth should adjust the end date of appellant's prior coverage to a date no sooner than April 15, 2024 – 14 days after April 1, 2024. With the adjustment in the termination date that also means that appellant would qualify for benefits to continue pending the appeal. The following regulation is relevant and states:

610.036: Continuation of Benefits Pending Appeal

(A) When the appealable action involves the reduction, suspension, termination, or restriction of assistance, such assistance will be continued until the BOH decides the appeal or, where applicable, the rehearing decision is rendered ***if the BOH receives the initial request for the fair hearing before the implementation date of the appealable action.*** If such appealable action was implemented before a timely request for a hearing, such assistance will be reinstated if the BOH receives the request for the fair hearing within ten days of the mailing of the notice of the appealable action. If the hearing officer's decision is adverse to the appellant, the appealable action will be implemented immediately, except as provided in 130 CMR 610.091(D)

(Emphasis added). Here, MassHealth issued the denial notice on April 1, 2024. No termination

² This provision concerns coverage start and end dates for individuals that receive temporary benefits through the hospital presumptive eligibility process. As there is no evidence Appellant's was receiving a presumptive eligibility benefit as determined by a qualified hospital, this exception would not apply in this case.

notice was ever sent to the appellant. As established above, the termination date should have been no earlier than April 15, 2024 and appellant should have received notice of it. The appellant appealed the notice on April 12, 2024 and thus her request for the hearing was before the implementation date of the appealable action and benefits should have been continued per appellant's request at least through the pendency of the appeal and hearing decision. Based on the above analysis, MassHealth should reinstate appellant's MassHealth CarePlus benefits through a determination from DES.

Based on the above analysis this appeal is DENIED in part, APPROVED in part, and REMANDED.

Order for MassHealth

Reinstate appellant's MassHealth CarePlus benefits from the date of termination through a determination from Disability Evaluation Services. Once the disability determination is made, redetermine the appellant's MassHealth eligibility and provide notice to the appellant.

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.

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.

Radha Tilva
Hearing Officer
Board of Hearings

cc:

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