

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied | Appeal Number: | 2406018 |
| Decision Date: | 07/02/2024 | Hearing Date: | 05/15/2024 |
| Hearing Officer: | Christopher Jones | | |

Appearance for Appellant:



Appearance for MassHealth:

Connie Dorvil – Tewksbury HCR
Roxana Noriega - Premium Assistance

Interpreter:



*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

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|---------------------------|----------------------------------|--------------------------|---|
| Appeal Decision: | Denied | Issue: | Community; Under-65; Premium Assistance |
| Decision Date: | 07/02/2024 | Hearing Date: | 05/15/2024 |
| MassHealth's Rep.: | Connie Dorvil; Roxana Noriega | Appellant's Rep.: | ██████ |
| Hearing Location: | Telephonic | Aid Pending: | Yes |

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 14, 2024, MassHealth informed the appellant that she must enroll in her employer-sponsored insurance, or her MassHealth coverage would be terminated on May 13, 2024. (Exhibit 1.) The appellant filed this appeal in a timely manner on April 16, 2024, and her benefits are protected pending the outcome of this appeal. (Exhibit 2; 130 CMR 610.015(B); 610.036.) Any MassHealth 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 informed the appellant that her coverage would be terminated if she was not enrolled in her employer-sponsored insurance.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 503.007, in determining that the appellant must enroll in available employer-sponsored insurance.

Summary of Evidence

The appellant is the head of household for herself and her two minor children. MassHealth's Premium Assistance representative testified that the appellant's employer offers two insurance plans that qualify for Premium Assistance coverage. MassHealth's representatives testified that all members of the family must enroll in the available employer-sponsored insurance or face termination. However, MassHealth's Enrollment representative confirmed that all members of the household are still active in MassHealth Standard, and they are protected pending the outcome of this appeal.¹

MassHealth's Premium Assistance representative explained that the agency would mail the appellant a check in advance for the full month's premium for the insurance, and that the appellant and her children would continue to be covered by MassHealth Standard. The appellant would have two insurances, and anything not covered by the primary insurance would still be covered by MassHealth. MassHealth also explained that the agency can issue a Qualifying Event letter that would allow the appellant to enroll in one of the plans outside of open enrollment.

The appellant testified that she has a lot of financial burdens and a difficult time making ends meet. She already cannot make rent, and she understands that her employer's insurance plans are not very good. She testified that the employer-sponsored insurance plans do not cover vision or dental, and that the prescription and co-pay costs are very high. MassHealth's representatives repeated that the appellant's family would have two insurances: the employer-sponsored plan and MassHealth, so she would not have to pay anything more than she already was with MassHealth.

The appellant responded that she understood that it would cost her hundreds of dollars per visit if she enrolled in her employer-sponsored plan. She also testified that some of their medications are already not being covered. It was clarified that she had a prescription that was denied prior authorization, but she had not appealed that denial. She testified that the only reason she appealed this MassHealth notice was that they said her insurance would be cancelled completely.

Findings of Fact

¹ MassHealth's computer system was down during the hearing. During her pre-hearing preparation, the Enrollment Center representative noticed that Premium Assistance had placed a closure on the children's coverage in December 2023 for failing to enroll in coverage. Despite this, the children's benefits were still in effect and had no anticipated closure date. She did not know why their coverage had not closed, but she suspected a Board of Hearings protection had been placed. As will be noted below, MassHealth Standard for minors cannot be closed for failure to enroll in available insurance.

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

- 1) The appellant and her two children are covered by MassHealth Standard. (Testimony by MassHealth's representatives.)
- 2) The appellant's children are minors. There is an 'administrative closure' in MassHealth's computer system for failing to enroll in available insurance, but they continue to be covered by MassHealth Standard without an expected end date. (Testimony by MassHealth's representative.)
- 3) The appellant is employed, and her employer offers two insurance plans that are eligible for Premium Assistance benefits. (Exhibit 1; testimony by MassHealth's representatives.)

Analysis and Conclusions of Law

MassHealth "is the payer of last resort and pays for health care and related services only when no other source of payment is available" (130 CMR 503.007.) One requirement of MassHealth coverage is that "member must obtain and maintain available health insurance in accordance with 130 CMR 505.000 Failure to do so may result in loss or denial of eligibility **unless the applicant or member is**" covered by "**MassHealth Standard** or MassHealth CommonHealth; **and ... younger than 21 years old** or pregnant." (130 CMR 503.007(A) (emphasis added).)

The appellant is eligible for MassHealth Standard as the parent or caretaker of a minor. (See 130 CMR 505.002(C).) One of the eligibility requirements for MassHealth Standard for parents is that the "parent or caretaker relative complies with 130 CMR 505.002(M)." (130 CMR 505.002(C)(2).)

(M) 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 MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: *Premium Assistance Payments*. Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

(130 CMR 505.002(M); see also 130 CMR 505.002(N) (MassHealth may investigate whether employer-sponsored insurance exists and terminate coverage if member refused to enroll).)

MassHealth made no error in identifying the appellant's available employer-sponsored insurance, nor would the agency be in error if it terminated the appellant's Standard coverage for failing to enroll herself. Therefore, this appeal is DENIED. The appellant must enroll in her employer-sponsored insurance for August 1 coverage. If she is not enrolled by then, MassHealth may end her Standard coverage.

It must be noted that MassHealth is correctly continuing the appellant's children's Standard coverage despite not being enrolled in available employer-sponsored insurance. They are under the age of 21 and covered by MassHealth Standard. Therefore, they may not be terminated from Standard coverage for failing to "obtain and maintain available health insurance." MassHealth may not terminate their Standard coverage, even if they are not enrolled in the available insurance.²

Order for MassHealth

Remove Aid Pending for the appellant-mother. Allow the appellant until August 1 to confirm that she is enrolled in one of her employer's qualifying insurance plans. Terminate the appellant-mother's coverage if she is not enrolled. Do not end coverage for the children.

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 This decision takes no position on the non-covered medicine that the appellant briefly mentioned. If this medication is subject to prior authorization, any denials of that approval must be separately appealed.

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