

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2406251
<b>Decision Date:</b>	8/5/2024	<b>Hearing Date:</b>	05/20/2024
<b>Hearing Officer:</b>	Casey Groff, Esq.	<b>Record Open to:</b>	06/04/2024

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Roslynn Gomes of the Taunton MassHealth  
Enrollment Center



*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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Eligibility; Over 65; Renewal
<b>Decision Date:</b>	8/5/2024	<b>Hearing Date:</b>	05/20/2024
<b>MassHealth's Rep.:</b>	Roslynn Gomes	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings, Remote	<b>Aid Pending:</b>	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 3/26/24, MassHealth notified Appellant that it was ending her senior buy-in (SBI) benefit on 4/9/24 for failure to return the eligibility review form to MassHealth under 130 CMR 502.007; 516.006. See Exhibit 1. Appellant filed this appeal in a timely manner on 4/19/24. See 130 CMR 610.015(B) and Exhibit 2. Denial and/or termination of coverage is valid grounds for appeal. See 130 CMR 610.032. A hearing took place on 5/20/24. See Exh. 3. At the conclusion of the hearing, the record was left open until 6/4/24 for the parties to submit additional evidence. See Exh. 5-7.

### Action Taken by MassHealth

MassHealth terminated Appellant's coverage on 4/9/23 because it determined that she did not submit a renewal form to MassHealth.

### Issue

The appeal issue is whether MassHealth was correct in terminating Appellant's coverage for failure to return an eligibility review form.

## Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by telephone and testified that Appellant is currently over the age of 65 and lives in the community in a household size of one (1). Appellant was previously enrolled in a MassHealth CommonHealth benefit for individuals under the age of 65; however, after turning [REDACTED] Appellant's benefit switched to MassHealth Senior Buy-In (SBI) on/around [REDACTED] 24. MassHealth informed her of the change in coverage type through a notice dated 1/26/24. Approximately two months later, on 3/26/24, MassHealth notified Appellant that it was ending her SBI coverage on 4/9/24 because she "did not return the eligibility review form to MassHealth [under] 130 CMR 502.007 516.006" and that MassHealth would "no longer pay for [her] Medicare premium, coinsurance, and deductibles." See Exh. 1. Appellant filed a timely appeal of the 3/26/24 notice with the Board of Hearings (BOH) on 4/19/24. See Ex. 2.

The MassHealth representative reviewed the MA-21 system, which maintains case information for the over-65 population, to see what, if any correspondence was sent to Appellant prior to the 3/26/24 termination notice. Upon review, the representative testified that there was a note in the system indicating a renewal application was mailed to Appellant on 1/30/24. When asked if MassHealth sent a notice advising her of the renewal due date, the representative responded that she did not see any notice other than the 1/26/24 notice regarding change in coverage type.

The MassHealth representative testified that following the closure of Appellant's SBI coverage on 4/9/24, MassHealth eventually received a completed renewal on 4/23/24. On 5/9/24, MassHealth sent Appellant a request for information (RFI), listing various documentation that she needed to submit by 8/9/24 to determine eligibility. See Exh. 6. The MassHealth representative indicated that not all verifications have been received as of the hearing date and thus it was unable to redetermine or reinstate Appellant's coverage.

Appellant testified that she is disabled and had been covered under a CommonHealth benefit since 2009. MassHealth closed her benefit because she turned [REDACTED]. Since then, she has been trying to reestablish eligibility so she can get her coverage back. Appellant testified that on 3/15/24, she faxed in all 4 pages of the renewal to MassHealth. When she called to confirm receipt, MassHealth told her it was missing a signature page. The next day, she refaxed the missing page and thought she was all set. She was unaware that MassHealth did not have everything. After she received the termination notice on 3/26/24, she again refaxed the renewal to MassHealth. She received the 5/9/24 RFI and was working on getting the documents, however she needs to have her CommonHealth reinstated. Since her coverage ended, she has incurred medical expenses for psychiatrist calls and prescriptions. She is going into month two of no insurance.

In response, MassHealth reviewed Appellant's case and confirmed a note showing that Appellant submitted a partial renewal on 3/15/24, but two of the four pages were missing. It was not until 4/23/24 that all pages of the renewal were sent to MassHealth.

At the conclusion of the hearing, the record was left open for additional information, including for MassHealth to review its MA-21 and HIX computer systems to determine whether a renewal notice was sent to Appellant advising her of the renewal deadline, and if so, to submit a copy of the notice in the record. See Exh. 5-6. During the record open period, MassHealth sent a copy of the 5/9/24 RFI, but did not submit evidence to indicate a renewal notice was sent to Appellant on or around 1/30/24. See Exh. 5-7. MassHealth advised that it was unable to reinstate Appellant's SBI coverage because she failed to submit the renewal by the deadline, but that it would render an eligibility determination in accordance with Appellant's anticipated response to the 5/9/24 RFI. Id.

## Findings of Fact

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

1. Appellant is [REDACTED] years of age and lives in the community in a household size of one (1). (Testimony).
2. After Appellant turned [REDACTED] MassHealth notified her, through a letter dated 1/26/24, that her under-65 CommonHealth benefit would change to SBI on [REDACTED] 24. (Testimony).
3. On 1/30/24, MassHealth mailed a senior application to Appellant's address; however, there was no record that MassHealth issued an accompanying notice to advise Appellant of the renewal return deadline. (Testimony).
4. On 3/15/24, Appellant faxed what she believed to be the completed senior application to MassHealth, however not all pages were received. (Testimony).
5. On 3/26/24, MassHealth notified Appellant that her SBI benefit was ending on 4/9/24 because she did not return the eligibility review form to MassHealth. (Exh. 1).
6. On 4/19/24, Appellant filed a timely appeal of the 3/26/24 notice with BOH. (Exh. 2).
7. On 4/23/24, MassHealth received Appellant's completed senior renewal, prompting MassHealth to issue a 5/9/24 RFI to Appellant seeking additional documentation to verify eligibility with a due date of 8/7/24. (Exh. 6).

## Analysis and Conclusions of Law

The appeal issue is whether MassHealth was correct in terminating Appellant's Senior Buy-In coverage for failure to submit a senior renewal application. As a preliminary matter, 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.

In the present case, MassHealth appropriately sought to redetermine Appellant's eligibility for benefits under program regulations applicable to individuals 65 years of age and older. See 130 CMR 516.00 et. seq., see also 130 CMR 502.007(A) (in addition to reviewing eligibility once per-year, MassHealth may also review eligibility as a result of a member's change in circumstances, or a change in MassHealth eligibility rules). For members who must complete a renewal to maintain coverage, MassHealth has outlined the following notification and redetermination process:

(2) MassHealth Eligibility Renewal Application. If the individual is residing in the community and his or her continued eligibility cannot be determined based on reliable information contained in his or her account or electronic data match with federal and state agencies, a MassHealth eligibility review form must be completed.

**(a) The MassHealth agency will notify the member of the need to complete the MassHealth eligibility review form.**

**(b) The member will be given 45 days from the date of the request to return the paper MassHealth eligibility review form.**

**1.** If the review is completed within 45 days, eligibility will be determined using the information provided by the individual with verification confirmed through electronic data matches if available.

**2. If the review is not completed within 45 days, eligibility will be terminated within 14 days from the date of the termination notice.**

**3. If the requested review form is submitted within 30 days from the date of the termination, a second eligibility determination is made within 15 days. Eligibility may be established retroactive to the date of termination, if otherwise eligible.**

(c) If the member's coverage type changes, the start date for the new coverage type is effective as of the date of the written notice.

130 CMR 516.007(C).

Following the end of the Covid-19 federal public health emergency (PHE), MassHealth returned to standard operating procedures, and, in doing so, implemented a 12-month redetermination period for all members starting April 2023 through April 2024. In conjunction with the eligibility regulations above, MassHealth published resources to facilitate processes during the redetermination period. According to these resources, members who cannot be automatically renewed are sent a renewal notice “with a call to action.” See MassHealth Renewal Help Guide (“MH Renewal Guide”) (April 2023), p. 7. The renewal notices designed for members 65 and older include, on the first page, the following language: “**IMPORTANT! PLEASE RETURN THIS PAGE WITH THE ENCLOSED REVIEW FORM BY [DUE DATE].**” Id. at 16 (emphasis in original). If a member responds to a renewal notice but MassHealth still needs more information to determine eligibility, the member has an additional 90-days to respond to the request for information (RFI). Id. MassHealth also implemented a “renewal reconsideration period,” which it describes as follows:

During the reconsideration period, a member who has been closed for failure to respond to a renewal notice can contact MassHealth to complete their renewal and will be reinstated to the day that they were closed, as long as they contact MassHealth within 90-days of their MassHealth coverage ending.

Id.; see also MassHealth Redeterminations: Supplemental Q&A Guide (“MH Supp. Guide”) (August 2023), p. 28 (noting that the 90-day renewal reconsideration period only applies for failure to respond to renewal notice but does not apply for failure to respond to RFIs, verifications, or other types of notices).

At hearing, MassHealth testified that after turning [REDACTED] Appellant’s benefit was downgraded from her under-65 CommonHealth benefit to SBI on or around 2/9/24. According to system notes, MassHealth mailed a senior renewal to Appellant’s address on 1/30/24. The system, however, did not contain any record to indicate that MassHealth sent a notice with the application, or around the time it was mailed, to advise Appellant of the renewal deadline. Nevertheless, both parties agree that on 3/15/24, Appellant attempted to fax a renewal to MassHealth but that only a portion was received. On 3/26/24, MassHealth notified Appellant that her SBI benefit would end on 4/9/24 for failure to return the renewal. See Exh. 1.

In reviewing the information in the record, there is no evidence to indicate that MassHealth complied with the regulatory notice requirements under 130 CMR §§ 516.007, 516.008 and as further detailed in the MH Renewal Guide and MH Supp. Guide. Without documentation to show Appellant received adequate notice of the renewal deadline and/or consequences of a failure to return the renewal, MassHealth may not proceed to terminate Appellant’s benefit on this basis.

Moreover, assuming, alternatively, that MassHealth did provide adequate notice of the renewal

deadline to justify closure of Appellant's benefit, MassHealth could have reinstated coverage during the reconsideration period. Under the redetermination guidelines, Appellant had 90-days from the date her coverage ended, i.e., 4/9/24, to contact MassHealth to complete her renewal. Notwithstanding the fact that Appellant sent MassHealth a partially completed renewal on 3/15/24, she again contacted MassHealth on 4/19/24 when she timely appealed the 3/26/24 termination notice to BOH, and again on 4/23/24 when she submitted her completed renewal to MassHealth. As Appellant contacted MassHealth within 90-days of her benefit ending to complete her renewal, she is eligible to have her coverage reinstated back to the termination date of 4/9/24 and giving her an "additional 90 days to respond to the [5/9/24] request for information." Once Appellant responds to the RFI, or alternatively fails to respond by the 8/9/24 deadline, MassHealth may proceed to new eligibility determination that will carry new appeal rights. Id.<sup>1</sup> Any subsequent eligibility determination should allow for the most comprehensive benefit she is entitled to based on her 4/23/24 application.

## Order for MassHealth

Rescind termination notice dated 3/26/24 and reinstate prior SBI coverage ensuring no gap in coverage following 4/9/24 termination date. If not already done, proceed with eligibility determination based on Appellant's response to 5/9/24 RFI. Any subsequent eligibility determination should allow for the most comprehensive benefit Appellant is entitled preserving her 4/23/24 application date.<sup>2</sup>

## 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.

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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

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<sup>1</sup> The MH Renewal Guide states that "If members respond to renewal notices by MassHealth still needs more information from the member, members have an additional 90 days to respond to that request for information." Id.; see also MH Redeterminations: Supplemental Q&A Guide, p. 28.

<sup>2</sup> Appellant will have the right to appeal any new eligibility determination.

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