

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407615
Decision Date:	8/21/2024	Hearing Date:	06/27/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Michelle Carvalho, Taunton MassHealth
Enrollment Center; Carmen Fabery, Premium
Billing Department



*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	Issue:	Premium Billing; Tax Refund Interception
Decision Date:	8/21/2024	Hearing Date:	06/27/2024
MassHealth's Reps.:	Michelle Carvalho, Carmen Fabery	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 13, 2024, the Massachusetts Department of Revenue intercepted a portion of the appellant's tax refund due to a delinquency on her MassHealth account. *See* 130 CMR 506.011(D)(3) and Exhibit 1. The appellant filed this appeal in a timely manner on May 13, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging the interception of a state tax refund to satisfy a MassHealth debt is valid grounds for appeal. *See* 130 CMR 610.032 and G.L. c. 62D, § 6.

Action Taken by MassHealth

A portion of the appellant's tax refund was intercepted by the Massachusetts Department of Revenue (DOR) due to a delinquency on the appellant's MassHealth account.

Issue

The appeal issues, for the reasons stated herein, are whether MassHealth acted within its discretion in reporting a delinquency on the appellant's account to the DOR, and whether the DOR intercepted the appropriate amount of money based on that report.

Summary of Evidence

The appellant is an adult under the age of 65 whose minor child was receiving MassHealth CommonHealth benefits during the relevant time periods. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center and a worker from the Premium Billing Department. All parties appeared by telephone. The following is a summary of the evidence and testimony provided at hearing:

On January 24, 2023, MassHealth approved the appellant's minor child for MassHealth CommonHealth benefits and imposed a monthly premium of \$168.00. At no time did the appellant appeal that notice. Due to the ongoing COVID-19 federal public health emergency (FPHE), the Premium Billing Department did not bill any members for their monthly premiums from the outset of the FPHE until June of 2023. The appellant was sent bills for the months of June, July, August, and September of 2023, and was terminated for nonpayment of premiums on October 4, 2023. The appellant called MassHealth on October 18, 2023, and was placed on a payment plan. The benefits were then reinstated with a monthly premium of \$144.00. The appellant was billed for the months of November and December, and was terminated on December 14, 2023, for nonpayment of premiums.

On or around March 13, 2024, MassHealth referred the delinquency on the appellant's account from June-September of 2023 to the State Intercept Program. This resulted in the DOR intercepting a portion of the appellant's tax return to cure the delinquency. Ultimately, the DOR intercepted a total of \$697.00 from the appellant's tax return.¹ The appellant filed a request for fair hearing of this notice on May 13, 2024, stating: "my tax refund was taken for an unpaid debt to MassHealth, but I had no unpaid debt." The appellant does not appear to have filed any previous or subsequent appeal with the Board of Hearings.

At the hearing, the parties agreed that the appellant's premium amounts were improperly calculated and should have been determined to be \$28.00 per month. The appellant reported that she attempted to call MassHealth in July or August of 2023 to discuss the bills, but stated that she may have waited on hold for so long that she either hung up or was hung up on. MassHealth does not have any record of the appellant calling at that time. The appellant also reported that when she did call on October 18, 2023, her intention was to cancel the benefits, not to be placed on a payment plan.

¹ The notice seems to state that the intercepted amount was \$687.00 plus a \$10.00 fee. However, the notice also states: "a processing fee of up to \$25.00 may be deducted from your refund." As the total amount of the delinquency on the appellant's account was \$672.00, the total amount of \$697.00 would be consistent with the balance on the account plus a \$25.00 fee.

Findings of Fact

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

1. The appellant's child was a MassHealth CommonHealth member during the relevant time at issue for this hearing. Exhibit 4, Exhibit 5 at 5-15.
2. On January 24, 2023, the appellant's child was approved for MassHealth CommonHealth benefits with a \$168.00 monthly premium. Exhibit 5 at 12-23.
3. Due to the ongoing COVID-19 federal public health emergency, the appellant was not billed a premium until June of 2023. Testimony, Exhibit 5 at 5.
4. The appellant was billed premiums for June, July, August, and September of 2023, and did not pay any of them. She therefore accrued a balance on her account of \$672.00. Testimony, Exhibit 5 at 5.
5. At no point did the appellant appeal the January 2023 notice, nor any of the premium bills, nor did she call to cancel those benefits prior to October of 2023. Testimony, Exhibit 5 at 5.
6. Some time prior to March 13, 2024, the balance on the appellant's account was deemed delinquent and was referred to the State Intercept Program. Testimony, Exhibit 1, Exhibit 5 at 5.
7. On March 13, 2024, the Massachusetts Department of Revenue intercepted \$697.00 of the appellant's income tax return to cure the delinquency on the appellant's MassHealth account. This amount covered the unpaid balance as well as a processing fee. Exhibit 1.
8. The appellant filed a timely request for fair hearing of the interception of her tax return on May 13, 2024. Exhibit 2.

Analysis and Conclusions of Law

MassHealth may impose a premium for members receiving MassHealth Standard, CommonHealth, or Family Assistance benefits whose household income is greater than 150% of the federal poverty level. See 130 CMR 506.011. MassHealth must send a timely notice of the imposition of any premium for it to be enforceable. See 130 CMR 610.015(A). These members "are responsible for monthly premium payments beginning with the calendar month following the date of the MassHealth agency's eligibility determination. 130 CMR 506.011(C)(1). Members who contact MassHealth "within 60 calendar days from the date of the eligibility notice and premium notification" to request a voluntary withdrawal of benefits may have their premiums waived. *Id.* at 506.011(C)(4).

MassHealth may terminate a member's benefits, pursuant to adequate notice, if "the member does not pay the entire amount billed within 60 days of the date on the bill." 130 CMR 506.011(D)(1). A member "who is 150 days or more in arrears" may be referred to the State Intercept Program "in compliance with 815 CMR 9.00: *Collection of Debts*." *Id.* at 506.011(D)(3).

A request for fair hearing is defined as "a written statement by the appellant that asks for administrative review of an appealable action." 130 CMR 610.034. Such a request must generally, with exceptions, be made either within 60 days "after an applicant or member receives written notice from...MassHealth...of the intended action," or "120 days from...the date of MassHealth agency action when the MassHealth agency fails to send notice of the action." 130 CMR 610.015(B)(1) and (2)(c).

At the hearing, two issues were discussed in addition to the issues raised by the notice: first, the amount of the premium imposed by the January 2023 notice, and subsequent interception of the appellant's tax return for delinquency due to nonpayment of the balance of those premiums; and second, whether the appellant successfully cancelled her benefits in October 2023, or whether she agreed to a payment plan. After careful review, and for the reasons stated herein, I find that the appealed notice only gives me the authority to decide whether MassHealth properly reported a delinquency on the appellant's account, and thus whether that delinquency was allowed to be recovered by a tax intercept from the DOR.

The appealed notice is clearly limited to the decision of EOHHS to report a delinquency on the appellant's account and the subsequent interception of her tax return to cure that reported delinquency. Although the evidence at hearing showed that the appellant's premium was improperly calculated in the January 2023 approval notice, the appellant did not appeal that notice, nor did she successfully call to cancel her MassHealth benefits when she received the bills in the summer of 2023. Frustrating though her experience may have been, it was her responsibility to notify MassHealth of her desire to terminate her benefits, or otherwise to file a fair hearing request if she wished to appeal a particular action. For those reasons, I am unable to find any laws that allow me take jurisdiction of any issue beyond 1) whether, based on the information it had at the time, MassHealth acted within its discretion in reporting a delinquency on the appellant's account to the DOR, and 2) whether the DOR intercepted an accurate amount of money based on what MassHealth reported.²

² At hearing it was discovered, and the parties agreed, that the appellant was charged the incorrect premium amount, and that only \$28 per month should have been billed. Further, the appellant stated that it was her intention to cancel her benefits when she called MassHealth in October of 2023, not to be placed on a payment plan. Although lack of timeliness prohibits me from ordering the reduction or waiver of the premium amounts for June, July, August, September, November, and December of 2023, MassHealth and/or the Premium Billing Department may certainly exercise their discretion to reduce the appellant's premium amount from \$168 to \$28 per month and/or waive it and issue a refund.

The evidence shows that, on January 24, 2023, MassHealth approved the appellant's daughter for MassHealth CommonHealth and imposed a \$168.00 per month premium. The Premium Billing Department then sent bills the months of June, July, August, and September, each of which went unpaid. Thus, because the appellant did not appeal the bills or cancel her benefits at any point, the appellant incurred a balance on her account of \$672.00. By March of 2024, the appellant would have been more than 150 days delinquent on that balance, giving MassHealth the authority to report that delinquency to the DOR pursuant to 130 CMR 506.011(D)(3). Based on that report from MassHealth, DOR properly intercepted the \$672.00 balance, plus a \$25.00 fee, leading to the total amount intercepted of \$697.00. I am therefore unable to find any error in the March 13, 2024, notice. For the foregoing reasons, the appeal is hereby denied.³

Order for MassHealth

None.

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.

Mariah Burns
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

MassHealth Representative: Premium Billing Department

³ Both the Premium Billing Department and the appellant discussed actions taken on the appellant's account in October, November, and December of 2023 resulting in a \$288.00 balance on her account. Because that balance had not been in arrears longer than 150 days at the time of this notice, it was not subject to intercept by the DOR at that time. During the record open process, the appellant inquired as to why she was receiving bills from MassHealth despite having clearly cancelled her benefits. The Premium Billing representative reported that these bills are for the past due premiums from November and December of 2023, not from any prospective bills. See Exhibit 7. The appellant is advised that she will be obligated to pay that balance, or else face another potential interception of her tax refund, unless MassHealth or the Premium Billing Department agrees to waive or reduce that balance. For the reasons stated herein, I am unable to order either department to take such an action.