

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2408048
<b>Decision Date:</b>	7/15/2024	<b>Hearing Date:</b>	06/24/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**

 (spouse)

**Appearance for MassHealth:**

Patrick George & Roxana Noreiga



*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>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	7/15/2024	<b>Hearing Date:</b>	06/24/2024
<b>MassHealth's Reps.:</b>	Patrick George & Roxana Noreiga	<b>Appellant's Rep.:</b>	Spouse
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center	<b>Aid Pending:</b>	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 May 10, 2024, MassHealth ended the appellant's coverage as of May 24, 2024 as he did not enroll in the required employer-sponsored insurance. (130 CMR 503.007; Exhibit 1). The Board of Hearings received a request for hearing on May 23, 2024. (130 CMR 610.000; Exhibit 2; Exhibit 4). An 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 notified the appellant that they are ending his coverage as of May 24, 2024 as he did not enroll in the required employer-sponsored insurance. (130 CMR 503.007).

### Issue

Whether MassHealth was correct in ending the appellant's coverage as of May 24, 2024 as he did not enroll in the required employer-sponsored insurance.

## Summary of Evidence

The appellant's representative appeared in person. MassHealth representatives from the Tewksbury MassHealth Enrollment Center (Tewksbury MEC) and Premium Assistance Unit (PAU) appeared via Microsoft Teams. The representative from the Tewksbury MEC testified that the appellant is a member of a family group of two and has been deemed eligible for MassHealth CommonHealth. On May 10, 2024, MassHealth ended the appellant's coverage as of May 24, 2024 as he did not enroll in the required employer-sponsored insurance.

The appellant had a hearing in April 2024 to address a notice regarding an agency determination that the appellant has insurance available through his spouse's job that meets the rules for MassHealth Premium Assistance and the appellant must enroll in this insurance by May 5, 2024 or his MassHealth benefits may end. The Board of Hearings issued a decision denying part of that appeal in June 2024.

The PAU representative testified that the appellant has 4 employer-sponsored insurance plans available that meet the minimum credible coverage (MCC) requirements to qualify for premium assistance payments. The PAU representative testified that MassHealth will pay 100% of the appellant's premiums after subtracting any premium owed to MassHealth.

The hearing decision issued in June 2024 found that the appellant would owe a premium of \$30. This would result in a premium assistance payment of the full premium due to the employer minus \$30. For example, if the employer-sponsored insurance had a premium of \$200, the appellant would receive a premium assistance payment of \$170 [ $\$200 - \$30 = \$170$ ]. The PAU representative noted that members receive premium assistance payments one month in advance of their premium payment. The PAU representative testified that for the first month of enrollment, a member will receive 2 payments to ensure coverage for the first month of enrollment and an advance payment for the second month. The appellant would then continue to receive payments one month in advance.

The PAU representative testified that they sent the appellant a qualifying event letter in March 2024 to present to the spouse's employer to allow them to enroll him in the employer-sponsored insurance outside of any specific enrollment period. The PAU representative stated that they could provide an updated letter for the appellant's spouse if she did not present, or the employer would no longer accept, the March 2024 letter. The Tewksbury MEC representative testified that the appellant cannot be eligible for MassHealth until he enrolls in available employer-sponsored insurance.

The appellant's spouse did not dispute the fact that the appellant is not enrolled in available employer-sponsored insurance. The appellant's spouse did not agree with MassHealth taking action to terminate coverage during the course of an appeal. The appellant's spouse

acknowledged receipt of the decision denying the first appeal. The appellant's spouse testified that they will not enroll in the employer-sponsored insurance. The appellant's spouse stated that her employer did not accept the qualifying event letter sent by MassHealth and would require her to pay for coverage back to March 2024. At one point, the appellant's spouse presented a message from the employer stating that they could only allow coverage back to March 2024. The statement did not appear to require the spouse to enroll in coverage back to that date or pay for premiums back to that date if she did not need coverage, only that it was the earliest date of coverage they could provide if she did not have other insurance.

The appellant's spouse stated that she does not have enough money to pay for insurance. The PAU representative stated again that MassHealth would pay 100% of the premium minus any amount owed to MassHealth.

## **Findings of Fact**

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

1. The appellant is categorically and financially eligible for MassHealth CommonHealth with a monthly premium of \$30.
2. The appellant has access to private insurance.
3. The private insurance meets the requirements for the appellant to receive premium assistance.
4. Premium assistance will cover 100% of the monthly premium for the private insurance, less the monthly CommonHealth premium of \$30.00.
5. The appellant did not enroll in the private insurance.
6. MassHealth terminated coverage.

## **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, except as otherwise required by federal law. (130 CMR 503.007). Every applicant and member must obtain and maintain available health insurance in accordance with 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types. (130 CMR 503.007(A)). Failure to do so may result in loss or denial of eligibility unless the applicant or member is:

- (1) receiving MassHealth Standard or MassHealth CommonHealth; and
- (2) younger than 21 years of age or pregnant. (130 CMR 503.007(A)).

MassHealth does not pay for any health care and related services that are available:

- (1) through the member's health insurance, if any; or
- (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services. (130 CMR 503.007(B)).

The appellant is over the age of 21 and not pregnant so is required to obtain and maintain available health insurance. The appellant's failure to do so resulted in a termination of MassHealth coverage. This decision was correct.

The appellant challenged the agency taking action during the course of an appeal. Pursuant to 130 CMR 610.036(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. (130 CMR 610.036(A)). If the hearing officer's decision is adverse to the appellant, the appealable action will be implemented immediately. (130 CMR 610.036(A)).

When a change affecting the member's assistance occurs while the hearing decision is pending, MassHealth will take appropriate action to implement the subsequent change affecting assistance, subject to the advance notice requirements and the right to assistance pending a hearing decision. (130 CMR 610.036(B)). In this case, a change affecting the appellant's assistance occurred when he decided to not enroll in his spouse's employer-sponsored insurance. The notice addressed in the June 2024 hearing decision stated that the appellant must enroll in the employer-sponsored insurance or his benefits may end. The appellant was not terminated at that time, he was just placed on notice of the impact of not enrolling in employer-sponsored insurance. When he chose not to enroll, this change affecting his assistance occurred while a decision was pending and MassHealth took appropriate action to implement the subsequent change. (130 CMR 610.036(B)). Even if MassHealth had not taken action during the initial appeal period, that hearing decision was adverse to the appellant and the agency action to move forward with the possibility of terminating coverage would be implemented immediately. (130 CMR 610.036(A)). Additionally, any assistance continued during the course of that appeal is subject to recoupment. (130 CMR 610.036(D)). This subsequent change or termination would likely decrease the amount of assistance that the agency could recoup.

As the actions taken by MassHealth were correct, this appeal is denied.

## 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.

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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290