

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|-------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2408727 |
| Decision Date: | 8/29/2024 | Hearing Date: | 07/01/2024 |
| Hearing Officer: | Casey Groff | Record Closed | 08/26/2024 |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Liz Nickoson, Taunton MassHealth Enrollment
Center; Carmen Fabery, Maximus Premium
Billing



*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: | Premium Billing; Tax Intercept |
| Decision Date: | 8/29/2024 | Hearing Date: | 07/01/2024 |
| MassHealth's Rep.: | Liz Nickoson; Carmen Fabery | Appellant's Rep.: | <i>Pro se</i> |
| Hearing Location: | Board of Hearings, 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 5/15/24, MassHealth, through the Department of Revenue (DOR), informed Appellant that it was intercepting a total of \$464.00 from Appellant's state tax refund. See Exhibit 1; 130 CMR 501.012. Appellant filed a timely appeal to the Board of Hearings on 6/3/24. See Exh. 2; 130 CMR 610.015(B)(1). Scope of assistance and MassHealth's intercept actions are valid grounds for appeal. See 130 CMR 610.032(A)(4)-(5).

Action Taken by MassHealth

MassHealth, through DOR, intercepted a portion of Appellant's tax refund to satisfy an outstanding debt for past due premiums.

Issue

The appeal issue is MassHealth was correct in intercepting a portion of Appellant's tax refund to satisfy Appellant's past due premiums.

Summary of Evidence

At hearing, MassHealth was represented by an eligibility and benefits social worker and a billing specialist from Premium Billing (collectively “the MassHealth representatives”). Appellant appeared at the hearing, acting *pro se*. All parties appeared by telephone and were sworn in.

The MassHealth eligibility representative testified to the following background information: Appellant is an adult under the age of [REDACTED] she is a tax filer and is currently in a household size of one (1). Appellant previously had a Standard with Buy-In benefit, which ended on 4/25/23. On 4/11/23, Appellant contacted MassHealth and added another individual to her case, thereby placing her in a household size of two (2). At that time, she also provided updated income that placed her at 344.38% of the federal poverty level (FPL). Through a letter issued that day, MassHealth notified Appellant that her benefit would change to CommonHealth, effective 4/1/23, and that she would owe a premium of \$152 each month starting May 2023. See id. at 13-15. On 7/19/23, Appellant provided MassHealth with updated employment and income information, the result of which, brought her to 389.22% of the FPL. The update prompted MassHealth to issue a letter, dated 7/19/23, informing Appellant that her monthly CommonHealth premium would increase to \$184 starting August of 2023. See id. at 10-14. On 9/17/23, MassHealth notified Appellant that she was no longer eligible for benefits based on information showing that she was incarcerated and that her coverage would end on 10/1/23. See id. at 9. In February of 2024, a new account profile was opened for Appellant and reflected zero income, resulting in Appellant’s approval for a Standard benefit effective 2/5/24.

The representative from MassHealth’s Premium Billing unit (the “PB representative”) testified that pursuant to the approval notices, MassHealth issued invoices to Appellant as follows: \$152 for June 2023; \$152 for July 2023; \$184 for August 2023, and \$184 for September 2023. No premium was charged for May 2023 due to the Covid-19 federal public health emergency (PHE) protections, which ended the following month. All notices were mailed to the address listed in Appellant’s account at that time and are consistent with the address listed on the CommonHealth approval notices issued on 4/11/23 and 7/19/23. The invoice letters included language of the potential consequences for failure to pay, including “taking your tax refunds or charging you late and processing fees under MGL c. 7A, c. 62D and 815 CMR 9.00.” See Exh. 6.

The PB representative further testified that MassHealth did not receive any premium payments from Appellant. As a result, Appellant accrued an outstanding balance of \$672 for the premiums owed June through September 2023. On 10/4/23, a closure was placed on Appellant’s case for having an outstanding premium balance on her account. Because her benefit had just closed due to the issue of incarceration, the system generated a notice dated 10/4/24, citing the same basis for ineligibility; however, the notice was generated due to the closure placed on her account by Premium Billing. See Ex. 5, p. 8. MassHealth continued to send invoices each month through January 2024, each of which included final notices advising

Appellant that she had a premium payment 120 days past due and that MassHealth would take action to collect the debt, including “taking your tax refunds or charging you late and processing fees (MGL c. 7A, c. 62D and 815 CMR 9.00).” Id. As no payment was received by MassHealth, the outstanding debt was referred to the Office of the Comptroller under the State Intercept Program. Through a letter dated 5/15/24, the Department of Revenue (DOR) notified Appellant that it had intercepted a total of \$464.00 of her tax refund to offset her existing debt. See Exh. 1. The PB representative testified that on 5/17/24, MassHealth received \$439 from Appellant’s intercepted tax refund. The payment was used to satisfy the premium charges for June and July 2023, totaling \$304. The remaining payment amount of \$135 was applied to a portion of Appellant’s August premium, bringing the balance for that month down to \$49. As the full amount of \$184 is still due for September, Appellant has a remaining total balance owed of \$233 on her account. Lastly, the PB representative submitted a spreadsheet showing that MassHealth paid claims totaling over \$2,000 for services rendered to Appellant between 5/21/23 through 8/14/23 when her CommonHealth coverage was active. See Exh. 5, p. 16.

Appellant testified that prior to being approved for CommonHealth, she had a Standard benefit with no premium. In March of 2023, she was notified that she was no longer eligible for her existing benefit. After being informed, via the 4/11/23 notice, that she was approved for CommonHealth with a \$152 premium, she went into her account to decline the coverage. Appellant testified that because she could not afford the premium, she took active steps to notify MassHealth that she did not want the coverage. Appellant testified that she never received any of the premium invoices identified by MassHealth, to otherwise question whether she still had coverage. Appellant conceded that the address listed on the approval notices and billing invoices (per the PB representative’s testimony), was her correct mailing address, but clarified that her mother lives at that address, and, at the time, Appellant was homeless. Appellant argued, however, that her mother is always on top of the mail and checks it “three times a day” and would have definitely notified her if she was receiving bills from MassHealth. Appellant stated that in [REDACTED] she moved to a different address, which she has since reported to MassHealth, and which MassHealth confirmed had been updated to her account. Appellant stated that she cannot explain why she did not receive the billing invoices, but that it could be a variety of reasons, such as getting lost in the mail, and that MassHealth also cannot verify what happened, as they do not send notices by certified mail.

Appellant explained that around this time, she had several hospital visits, during which she was “incoherent,” and did not authorize the hospital to bill insurance, nor was she aware she had insurance. Appellant testified that she received hospital bills for these events, which confirmed her belief that she was not insured. Appellant argued that MassHealth failed to call her or make any further attempts to get in touch with her about the premiums and it should be their responsibility to do so.¹

¹ Appellant testified that the basis for the termination of coverage, pursuant to the 9/17/23 notice, was incorrect as she was not incarcerated. Appellant testified that she has not been in jail since [REDACTED] that she has verified this, and yet it continues to be an ongoing problem with her coverage. Following the termination, she reapplied

In response, both MassHealth representatives were asked whether MassHealth had any record indicating Appellant requested a voluntary withdrawal of coverage. The MassHealth eligibility representative testified that a review of both Appellant's accounts in the system showed no record of a request to cancel coverage. She reviewed the various notes entered in Appellant's accounts including a call from Appellant in April 2023 to make an on-base appointment; as well as notes entered on 4/11/23 and 7/19/24 documenting updates that Appellant provided concerning her household composition, employment, and income. A final note from 7/27/23 indicated that the second household member, not Appellant, called to request removal from the case so that he could open his own MassHealth account. Appellant's other account was not created until 2/5/24 and did not contain notes related to cancelation of her CommonHealth benefit. Additionally, the PB representative testified that Appellant's Premium Billing account had been reviewed and the only documented correspondence from Appellant was from 5/29/24, after the intercept took place.

Findings of Fact

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

1. Appellant is an adult under the age of [REDACTED] and a tax filer.
2. On 4/11/23, Appellant provided MassHealth with updated household and income information, resulting her account to reflect that she was in a household size of (2) with income that placed her at 344.38% of the FPL.
3. Through a letter dated 4/11/23, MassHealth notified Appellant that her benefit would change from Standard to CommonHealth effective 4/1/23, and that she would owe a premium of \$152 each month starting May 2023.
4. On 7/19/23, Appellant provided MassHealth with updated income information, bringing her FPL to 389.22%.
5. Through a notice dated 7/19/23, MassHealth informed Appellant that her monthly CommonHealth premium would increase to \$184 starting August of 2023.
6. MassHealth sent Appellant premium invoices as follows: a May 2023 invoice for \$152; a June 2023 invoice for \$152; an August 2023 invoice for \$184; and a September invoice for \$184.

for MassHealth and was told, for the first time, she had two accounts.

7. All invoice notices were mailed to Appellant's correct address reflected on her account at that time and are consistent with the address listed on the CommonHealth approval notices dated 4/11/23 and 7/19/23.
8. Following the approval notices that were issued on 4/11/23 and 7/19/23, MassHealth did not receive a request from Appellant to withdraw from, or cancel, her coverage.
9. On 9/17/23, MassHealth notified Appellant that she was no longer eligible for benefits based on information showing that she was incarcerated and that her coverage would end on 10/1/23.
10. MassHealth did not receive any premium payments from Appellant, resulting in an accrued outstanding balance of \$672 for amounts charged from June through September 2023.
11. On 10/4/23, MassHealth premium billing put a closure on Appellant's case due to having overdue premiums.
12. MassHealth continued to send Appellant invoices each month from October 2023 through January 2024, which included final notices advising Appellant that her premium payment was 120 days past due and that MassHealth would be taking action to collect the debt within 30 days, which could include "taking your tax refunds or charging you late and processing fees (MGL c. 7A, c. 62D and 815 CMR 9.00)."
13. As no payment was received by MassHealth on the premium charges that were 120-days past due, Appellant's debt was referred to the Office of the Comptroller under the State Intercept Program.
14. Through a notice dated 5/15/24, DOR notified Appellant that it had intercepted \$464.00 from her tax refund to be applied to her delinquent account with MassHealth.
15. On 5/17/24, MassHealth received \$439 from the tax interception and applied this amount to Appellant's total outstanding balance of \$672, leaving a remaining balance of \$233 on her account.

Analysis and Conclusions of Law

The issue on appeal is whether Appellant had outstanding past due premiums for her MassHealth coverage; and if so, whether MassHealth correctly intercepted her state income tax return to satisfy a portion of the outstanding balance. By filing this appeal, it is the Appellant's burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

The evidence shows that on 4/11/23, MassHealth informed Appellant that her benefit would change to CommonHealth and advised her that she would owe \$152 each month for the coverage. MassHealth's authority to charge premiums to certain members is found in 130 CMR 506.011. Under this regulation, 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. Members who are subject to a premium "are responsible for monthly premium payments beginning with the calendar month following the date of the MassHealth agency's eligibility determination." See 130 CMR 506.011(C)(1). A member may have their premium waived if they contact MassHealth "within 60 calendar days from the date of the eligibility and premium notification" to request a voluntary withdrawal of benefits. See 130 CMR 506.011(C)(4)). Under subsection (D) of 130 CMR 506.011, MassHealth addresses the various actions it may take when a member has delinquent premium payments, which include, in relevant part, the following:

(3) Referral to State Intercept Program for Collection of Delinquent Payment.

The MassHealth agency may refer a member who is 150 days or more in arrears to the State Intercept Program (SIP) in compliance with 815 CMR 9.00: *Collection of Debts*. Members will not be referred to SIP for collection of a past due balance if they have and are currently paying on the payment-plan arrangement that was approved by the MassHealth agency.

Under the State Intercept Program, the Office of the Comptroller is authorized to collect debts which are processed through the State accounting system, such as overdue MassHealth premiums, by intercepting a debtor's tax refund when the reported debt is 120 days or more past due.² See 815 CMR §§ 9.01, 9.07; see also M.G.L. c. 29, § 29D, G.L. c. 7A, §§ 3,8,15, 18-19, and G.L. c. 62D. Once the debt is 120 days in arrears, it is automatically assigned to the Office of the Comptroller for collection and is deemed to be certified and accurate by the referring billing entity. See id.

In accordance with the regulatory provisions, discussed above, MassHealth appropriately sought to intercept Appellant's tax refund to offset a portion of her delinquent account. Prior to taking such action, MassHealth advised Appellant of the monthly premiums associated with her coverage, pursuant to the approval notices dated 4/11/23 and 7/19/23. In addition,

² Pursuant to 815 CMR 9.02, contingent percentage fees and other fees and charges established under MGL c. 29, § 29H or other state or federal laws or regulations, may be added to the debt to be collected and deducted from payments when a debt is collected.

between June 2023 and January 2024, MassHealth issued monthly invoices specifying the total premium balance owed, payment due date, and the consequences of failing to pay outstanding fees. It is undisputed that Appellant did not make any premium payments on her account. Accordingly, she accrued a total outstanding balance of \$672 between the coverage dates of 4/1/23 and 10/1/23.³ Appellant's objection to MassHealth's recoupment action centers on her testimony that she voluntarily withdrew from coverage upon receiving notice of the premium, as well as her testimony that she never received the billing invoices. While Appellant's testimony was credible, the record contains conflicting evidence, including documentation showing all eligibility and billing notices were mailed to Appellant's correct address; as well as testimony from the MassHealth representatives regarding the absence of any notation in Appellant's accounts reflecting a request to withdraw from coverage. Based on the totality of evidence in the record, Appellant has not met her burden in demonstrating that MassHealth erred in intercepting her state tax refund to offset her delinquent premium payments. See 130 CMR 506.011 and 815 CMR 9.07. MassHealth's recoupment measure, as detailed in the 5/15/24 notice under appeal, was appropriate and within the scope of the governing authority described herein.

For these reasons, the 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

³ While not a determinative factor in this appeal, it is noted that because Appellant had an active CommonHealth benefit at this time, MassHealth paid over \$2,000 in provider claims for medical services rendered to Appellant.

receipt of this decision.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

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

Premium Billing Representative, Attn: Karishma Raja, Maximus Premium Billing, 1 Enterprise Drive, Suite 310, Quincy, MA 02169