

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2409083
Decision Date:	9/13/2024	Hearing Date:	07/16/2024
Hearing Officer:	Casey Groff, Esq.	Record Closed	09/09/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sherrienne Paiva, Taunton MassHealth
Enrollment Center;
Karishma Raja, 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

Appeal Decision:	Approved	Issue:	Eligibility; Under 65; Income; Premium Billing; Adoption
Decision Date:	9/13/2024	Hearing Date:	07/16/2024
MassHealth's Rep.:	Sherrienne Paiva; Karishma Raja,	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 5/20/24, MassHealth informed Appellant that her minor daughter was approved for MassHealth Family Assistance starting 5/10/24 with a \$20 premium each month starting June 2024. See Exh. 1. Appellant filed this appeal in a timely manner on 6/7/24. See 130 CMR 610.015(B) and Exhibit 2. Challenging the amount and scope of assistance is valid grounds for appeal. See 130 CMR 610.032. A hearing was conducted on 7/16/24. See Exh. 3. Following the hearing, the record was briefly reopened through 9/9/2024 to give Appellant the opportunity to submit additional evidence. See Exh. 6.

Action Taken by MassHealth

MassHealth approved Appellant's minor daughter for Family Assistance with a \$20 premium.

Issue

The appeal issue is whether MassHealth was correct in determining whether the most

comprehensive benefit for which Appellant's minor adopted daughter was eligible was Family Assistance with a \$20 monthly premium.

Summary of Evidence

A MassHealth eligibility representative testified that Appellant, an adult under the age of 65, is in a household size of two, comprised of herself and her minor daughter ("daughter" or "child"). Both household members were previously enrolled in Standard based on income eligibility; however, this benefit ended on 3/15/24 for non-completion of the annual renewal. After their coverage ended, Appellant updated her case, reporting projected yearly income of \$48,000, which amounted to \$4,013 per-month, placing the household at 230.62% of the federal poverty level (FPL). On 5/20/24, MassHealth notified Appellant that she did not qualify for MassHealth benefits because she was no longer income-eligible, and that her daughter qualified for MassHealth Family Assistance, which would start on 5/10/24 and would carry a \$20 monthly premium starting June 2024. See Exh. 1.

A representative from MassHealth Premium Billing testified that pursuant to the daughter's eligibility for Family Assistance, MassHealth billed \$20 for June and July 2024; however, the invoices were not sent because there was an erroneous exemption placed on their case in the HIX case management system.¹ Because of the error, MassHealth waived the premiums for those months; however, Appellant will need to pay subsequent premiums for upcoming months.

Appellant appeared at hearing and testified that she adopted her daughter in April of 2020. Although they both lived in Massachusetts, the daughter was placed in Florida foster care for a brief period, and this is where the adoption legally took place. Appellant thought that her daughter had also been temporarily placed in Massachusetts foster care prior to this. During the adoption process, she was assured from the Florida Court and the lawyers involved that the adoption process entitles her daughter to free health care through Medicaid, regardless of whether they move to a different state. At this time, the Court and lawyers were aware of her intention to move back to Massachusetts, so this very issue was addressed. Appellant testified that when they returned to Massachusetts, both she and her daughter qualified for Standard, and she does not understand why this changed. Prior to the hearing, Appellant submitted the court documents from the adoption, which she asserted, should establish that her daughter, based on her adoption status, is entitled to full Medicaid coverage. The documents therein grant her monthly assistance payments, which Appellant testified she continues to receive, so she does not understand why the related medical assistance would stop. Appellant was unable to point to any specific provision within the documents or regulatory basis to support her argument; however, she asserted that these are the documents that she was told would verify her daughter's eligibility for Medicaid in any state they chose to reside. The documents provided consists of the following:

¹ The representative testified that the exemption was a an erroneous "QHP Exemption" as no one in the household had an active plan through the Health Connector.

- A Final Judgment of Adoption dated [REDACTED] 2020, through which the presiding Florida Circuit Court Judge established that, Appellant's daughter was born in Massachusetts, and that on [REDACTED] 2019, she was permanently committed to the Department of Children and Families (DCF) pursuant to a Florida court order, for subsequent adoption. See Exh. 4. The Final Judgment affirms the legal adoption of the minor child by Appellant. Id.

- An adoption assistance agreement between Appellant and Florida DCF officials, which authorized Appellant's daughter to receive monthly IV-E maintenance assistance payments and medical assistance (Medicaid) at \$0.00, based on her designation as "a child with special needs in the State of Florida" with Appellant in agreement with the following terms, in relevant part:

- ...
4. Our child will receive Medicaid benefits as provided under Title XIX of the Social Security Act, in accordance with the procedures applicable in Florida.
 5. If we currently live in, or subsequently move to another state in the USA, and our child is Title IV-E eligible, the other state will be responsible for the provision of Medicaid services. The adoption unit, which placed my child with my family, will assist my family in securing Medicaid benefits in my state of residence.
 6. We must use Medicaid service providers when such are available in reasonable proximity to our home.
-
20. Services and payments provided under this agreement will terminate when the child identified above reaches 18 years of age. See Exh. 3.

- A "Request from Florida to Open Medicaid" form completed to be referred to the Massachusetts Department of Children and Families (DCF), which identifies Appellant's daughter as being eligible for Medicaid based on "Title IV-E" adoption assistance and, on this basis, sought a requested Medicaid opening date of 5/1/2020 for Appellant's minor child. ²

In response, MassHealth indicated that eligibility rules at 130 CMR 505.002(H) grant former foster-care children MassHealth Standard. MassHealth is able to access records from DCF so it can identify individuals that would be eligible for this coverage-type. At hearing, the MassHealth representative indicated that a search was conducted and there were no records showing that Appellant's daughter was a former foster child in Massachusetts or was otherwise eligible for a more comprehensive benefit than Family Assistance.

² This form also shows that the Appellant's daughter's Florida Medicaid benefit closed on 9/30/19. See id.

Findings of Fact

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

1. The Appellant, an adult under the age of 65, adopted her minor daughter in Florida and the Circuit Court ordered a final judgement of the adoption on [REDACTED], 2020.
2. Appellant signed a Title IV-E adoption assistance agreement with the state of Florida which approved Appellant's daughter to receive Medicaid benefits as provided under Title XIX of the Social Security Act and rendered her Title IV-E eligible to receive Medicaid benefits in her state of residence.
3. The adoption assistance agreement remains in effect until Appellant turns 18 years of age or when the agreement is terminated, whichever date comes first.
4. Following the adoption, Appellant and her daughter became residents of Massachusetts, where they currently reside, in a household size of two.
5. Appellant and her daughter were previously enrolled in Standard; however, this benefit ended on 3/15/24 for non-completion of the annual renewal.
6. At the time of hearing, the adoption assistance agreement had not terminated, and Appellant continued to receive the maintenance payments in accordance with the agreement terms.
7. Appellant has a projected yearly income of \$48,000, which amounts to \$4,013 per-month, placing the household at 230.62% of the FPL.
8. Through a notice dated 5/20/24, MassHealth informed Appellant that she did not qualify for MassHealth benefits due to her income, and that her daughter qualified for MassHealth Family Assistance, which would start on 5/10/24 and would carry at \$20 monthly premium starting June 2024.
9. Due to an error in MassHealth's system, premium billing did not issue invoices for the June and July 2024 premium charges, and these were waived; however, invoices would be billed for coverage in the subsequent months.

Analysis and Conclusions of Law

MassHealth is responsible for the administration and delivery of health-care services to eligible individuals. See 130 CMR 501.003. To carry out this function, the agency will determine the

MassHealth coverage type which provides individuals with the most comprehensive benefit for which they are eligible. See id.

In determining eligibility for Appellant and her daughter, who are in a household size of two, MassHealth applied eligibility rules found in 130 CMR §§ 501.000 - 508.00, which, generally, pertain to individuals under 65-years of age. At that time, MassHealth determined that Appellant's income, which placed her and her daughter's household income at 230.62% of the FPL, exceeded the maximum FPL of 150% for Appellant's daughter, a child between the ages of 1 through 18 years old, to qualify for MassHealth Standard. See 130 CMR 505.002(B)(2). Because, however, they remained under 300% of the FPL, MassHealth determined that Appellant's daughter was eligible for Family Assistance subject to a \$20 monthly premium. See 130 CMR 505.002(H) and 130 CMR 506.001(B)(3)-(5). MassHealth informed Appellant of its eligibility determination through a notice dated 5/20/2024.

Appellant does not dispute the income figures or FPL calculations cited by MassHealth at hearing.³ Rather, Appellant argues that her daughter's adopted status renders her eligible for a greater Medicaid benefit than Family Assistance and exempts her from having to pay a premium. Appellant submitted evidence showing that she legally adopted her daughter on [REDACTED]/2020 in the state of Florida. See Exh. 4. As part of the adoption proceedings, Florida officials deemed the daughter a "special needs" child rendering her eligible for federal Title IV-E adoption assistance payments and full Medicaid coverage for the terms outlined in the adoption assistance agreement. See Exh. 3. In consideration of this evidence, and in accordance with the applicable regulations and legal authority discussed herein, Appellant's basis for disputing the 5/20/24 notice is correct.

Apart from the standard eligibility regulations for the "under-65" population, discussed above, MassHealth sets forth special categories of eligibility found in 130 CMR 522.00 *Division Programs*, which includes the following:

522.003: Adoption Assistance and Foster Care Maintenance

Any child placed in subsidized adoption or foster care under Title IV-E of the Social Security Act is automatically eligible for medical assistance provided by the state where the child resides.

³ Because Appellant did not dispute her income and only objected to the 5/20/24 notice with respect to her daughter's eligibility, this decision only addresses MassHealth determination with respect to her daughter's eligibility. Because Appellant's income exceeded 133% of the FPL, she did not qualify for any applicable coverage types.

- (A) Children receiving state-subsidized adoption payments from a state that is a member of the Interstate Compact on Adoption and Medical Assistance (ICAMA) will be eligible for medical assistance provided by the state where the child resides if that state is a member of ICAMA.
- (B) Children receiving state-subsidized adoption payments from a state that is not a member of ICAMA, or any child receiving state-subsidized foster-care payments will only be eligible for medical assistance provided by his or her state of origin.

See 130 CMR 522.003

Medicaid coverage for the aforementioned eligibility group is mandated under Title IV-E of the Social Security Act (“the Act”) pursuant to classifying those receiving such assistance as “categorically needy.”⁴ Federal regulation at 42 CFR § 435.145, which implements the applicable provisions of the Act,⁵ states that Medicaid agencies “must provide Medicaid to individuals for whom... (1) An adoption assistance agreement is in effect with an IV-E participating State, regardless of whether adoption assistance is being provided or an interlocutory or other judicial decree of adoption has been issued...” Unlike the eligibility groups described in 130 CMR §§ 501.001 - 508.00, “[t]here is no income or resource test for eligibility in the Children with Title IV-E Adoption Assistance group, [but rather,] Medicaid eligibility is based on the [] determination of a child’s title IV-E eligibility, and as such, the Medicaid agency does not conduct a determination of financial eligibility for Medicaid under this group.” See Centers for Medicare & Medicaid Services (CMS), U.S. Dept of Health & Human Services, *Implementation Guide: IV-E Addition Assistance* (8/31/2020).⁶ The state of residence is responsible for enrolling the IV-E individual in its Medicaid program under the IV-E group. Id. The state may not require a Medicaid application for the IV-E individual, either for initial openings of Medicaid or for interstate transfers of Medicaid that accompany adoption or foster care assistance under title IV-E. Id.

Additionally, MassHealth expressly exempts children in receipt of Title IV-E adoption assistance from certain eligibility rules, including premium payment and co-payment requirements (see 130 CMR 506.011(J)(5)), as well the need to verify citizenship and identity (see 130 CMR §§ 504.001 and 518.001). Individuals eligible under 130 CMR 522.003 may voluntarily enroll in a MassHealth Managed Care Provider or opt to receive all services on a fee for service basis. See

⁴ “Categorically needy” in this instance, refers to “mandatory eligibility groups who, generally, are receiving or deemed to be receiving cash assistance under the Act [and who are specified in] sections 1902(a)(10)(A)(i), 1902(e), 1902(f), and 1928 of the Act.” 42 CFR § 435.4.

⁵ The specific provisions of the Act, implemented by 42 CFR § 435.145, are sections 1902(a)(10)(A)(i)(I) and 473(b)(3).

⁶ A copy of this guide can be found online at:

<https://www.hhs.gov/guidance/document/implementation-guide-iv-e-adoption-assistance>

To facilitate the Title IV-E eligibility mandate, The Interstate Compact on Adoption and Medical Assistance (ICAMA or “the Compact”), of which both Florida and Massachusetts are signatories, was designed to provide a unified means to “assure that adoptive children for whom federally funded adoption assistance is desirable and necessary shall continue to receive such adoption assistance, including medical and other necessary services.”⁷ Pursuant to the Compact, the medical assistance program for the resident state must issue a “medical assistance identification” which “shall entitle the child to the same benefits, pursuant to the same procedures, as any other child who is a resident of the state and covered by medical assistance, whether or not the adoptive parents are eligible for medical assistance.” Id. In doing so, the state “shall accept, process, and pay medical assistance claims thereon as any other medical assistance to which its residents may be eligible or entitled.” Id.

Here, Appellant’s daughter is a Massachusetts resident under the age of 18 and subject of an active IV-E assistance adoption agreement, through which she receives Title IV-E adoption maintenance payments. As such, she is automatically eligible for MassHealth under 130 CMR 522.003. The traditional income limits applicable to eligibility groups under 130 CMR §§ 501 – 508 should not prevent Appellant’s daughter from receiving the full range of medical assistance “to which other residents may be eligible or entitled.” Id. Moreover, her adoption status renders her exempt from having to pay a premium for coverage. See 130 CMR 506.011(J)(5). As noted above, Appellant has provided proof of her legal adoption, the Title IV-E adoption assistance agreement, and other paperwork that indicates, there was, at a minimum, an attempt to refer the child’s Title IV-E Medicaid eligibility from Florida to Massachusetts. It is unclear whether the intended information exchange was made between the applicable state agencies. Regardless, the governing state and federal law explicitly directs state Medicaid agencies, such as MassHealth, to ensure full coverage is granted to children in receipt of IV-E adoption assistance, regardless of whether the agreement was entered into by a different state and without consideration of the parent’s income or eligibility. See CMS Implementation Guide. Because Appellant is eligible for full MassHealth Standard benefits under 130 CMR 522.003 with no premium or co-pay requirements, the 5/20/24 eligibility determination was incorrect.

Appellant’s daughter’s continued eligibility under this group is subject to administrative renewals to confirm her continued state residency and that the adoption assistance agreement remains in effect. See id.

Order for MassHealth

⁷A copy of the compact can be found at:

<https://compacts.csg.org/wp-content/uploads/2024/03/Interstate-Compact-on-Adoption-and-Medical-Assistance.pdf>; see also https://aaicama.org/wp-content/uploads/2021/02/Fact_Sheet_ICAMA.pdf

Rescind eligibility notice dated 5/20/24 only with respect to Appellant's daughter's eligibility. Approve Appellant's daughter for MassHealth Standard under 130 CMR 522.003 with no associated premium or co-pay obligation. Coverage should be reinstated retroactive to ensure no gaps since her prior Standard benefit ended on 3/15/2024.

If Appellant has made any premium payments for her daughter's Family Assistance benefit, Premium Billing is to reimburse Appellant for any such payments made.

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

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

MassHealth Rep: Maximus Premium Billing;

Dept. of Children & Families, ATTN: Compact Administrator, 600 Washington Street, 6th Floor
Boston, MA 02111