

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2410454
<b>Decision Date:</b>	9/6/2024	<b>Hearing Date:</b>	08/13/2024
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Timothy O'Donnell, Tewksbury 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>	Denied	<b>Issue:</b>	Under 65; Eligibility; Termination
<b>Decision Date:</b>	9/6/2024	<b>Hearing Date:</b>	08/13/2024
<b>MassHealth's Rep.:</b>	Timothy O'Donnell	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	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 June 7, 2024, MassHealth downgraded the appellant's from MassHealth CarePlus to the Health Safety Net benefits due to a change in the appellant's income with an effective date of June 21, 2024. *See* 130 CMR 505.002(B)(3) and Exhibit 1. The appellant filed this appeal in a timely manner on July 5, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging agency action regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth CarePlus benefits with an effective date of June 21, 2024.

### Issue

The appeal issue is whether MassHealth can or should protect the appellant's MassHealth CarePlus benefits until August 2024.

## Summary of Evidence

The appellant is an adult under the age of [REDACTED] who resides in a household of one. MassHealth was represented by a worker from the Tewksbury MassHealth Enrollment Center. All parties appeared at the hearing by telephone. The following is a summary of the evidence and testimony provided:

On June 7, 2024, the appellant reported a change in her income that raised her from 98.58% to 202% of the Federal Poverty Level. Based on that, MassHealth determined that the appellant's income exceeded the requirements to qualify for benefits and generated a notice downgrading her assistance from MassHealth CarePlus to the Health Safety Net with an effective date of June 21, 2024.

The appellant filed a request for fair hearing on July 5, 2024, and checked off the following box: "During the appeal process, I want to keep the benefits that I was receiving before. If I check this line and lose my appeal, I may have to pay back the cost of the benefits I received during my appeal." At the hearing, the appellant reported that she agrees with the calculation of her income and that she does not qualify for MassHealth benefits. Instead, she asked that her MassHealth CarePlus be kept in place for the month of July, as her new insurance with her employer did not go into effect until August of 2024. She reported that she did not incur any medical expenses for the month of July, but she is concerned about the tax implications for not being insured for the month of August.

## Findings of Fact

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

1. The appellant is an adult under the age of [REDACTED] who resides in a household of one and, prior to the issuance of the notice on appeal, was a MassHealth CarePlus member. Testimony, Exhibit 1, Exhibit 4.
2. On June 7, 2024, the appellant informed MassHealth of a change to her income. Testimony.
3. On that same day, the change in the appellant's income led to the generation of a notice downgrading of her benefits from MassHealth CarePlus to the Health Safety Net with an effective date of June 21, 2024. Exhibit 1.
4. The appellant filed a timely request for fair hearing on July 5, 2024, and requested to receive Aid Pending during her appeal. Exhibit 2.
5. Aid Pending was not imposed by the Board of Hearings.

6. The appellant agrees that she no longer qualifies for MassHealth CarePlus. Testimony.

## Analysis and Conclusions of Law

MassHealth members have an obligation to report any changes including, but not limited to, income and the availability of health insurance to MassHealth within 10 days of the change. See 130 CMR 501.010(B). In the event that such a change affects a member's eligibility for benefits, MassHealth generally may "terminate or downgrade [benefits] no sooner than 14 days from the date of termination or downgrade notice..." 130 CMR 502.006(D).<sup>1</sup> An exception to that rule is if the member appeals that determination to the Board of Hearings and requests that benefits remain in place during the appeal "as described at 130 CMR 610.026: *Continuation of Benefits Pending Appeal*." *Id.* This continuation of benefits is colloquially known as Aid Pending.

An appellant may qualify for Aid Pending if they meet the following requirements:

When the appealable action involves the reduction, suspension, termination, or restriction of assistance, such assistance will be continued until the [Board of Hearings (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). Put otherwise, the Board of Hearings will approve Aid Pending if requested by the appellant if the fair hearing request is received within 10 days of the date of the issuance of the notice OR if MassHealth has not yet implemented the decision to reduce, suspend, terminate, or restrict the benefits.

In this case, the notice at issue generated on June 7, 2024, and the termination of the appellant's MassHealth CarePlus benefits went into effect on June 21, 2024, which complies with 130 CMR 502.006(D). The appellant's request for fair hearing, though timely to schedule an appeal, was not received by the Board of Hearings until July 5, 2024. As that is more than 10 days after the issuance of the notice and after the implementation date of the appellant's benefit downgrade, the appellant is not entitled to a protection of her benefits for the month of July. The regulations provide no other avenue to extend a member's eligibility after a downgrade or termination decision has been made. Therefore, I find no error with the issuance of the June 7, 2024, notice terminating the appellant's MassHealth CarePlus on June 21, 2024.

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<sup>1</sup> Apart from receiving Aid Pending during an appeal, the only exception to this rule is in the event that the ending of benefits is subject to the requirements of 130 CMR 502.004. As that regulation deals with Hospital-determined Presumptive Eligibility, it is not relevant for this appeal.

For the foregoing reasons, the appeal is hereby 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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Mariah Burns  
Hearing Officer  
Board of Hearings

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