

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2410966
Decision Date:	10/7/2024	Hearing Date:	08/16/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Katie Burgess (Taunton MEC) *via telephone*



*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 in part; Denied in part	Issue:	Community Eligibility – under 65/ Coverage start date
Decision Date:	10/7/2024	Hearing Date:	08/16/2024
MassHealth's Rep.:	Katie Burgess	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Taunton MassHealth Enrollment Center	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 December 7, 2023, MassHealth informed the appellant that her coverage would end on December 21, 2023, because she had not submitted a requested proof of residency by November 14, 2023. (See 130 CMR 502.003(D) and Exhibit (Ex.) 6). The appellant did not respond to the notice before the end date of coverage or submit an appeal of the notice within 60 days and therefore her coverage ended on December 21, 2024. (See 130 CMR 610.015(B) and Ex. 3). Through a notice dated April 30, 2024, MassHealth informed the appellant that she was not eligible for MassHealth benefits because she had not submitted a requested proof of residency by April 21, 2024. (See 130 CMR 502.003; Ex. 7). Through a notice dated May 28, 2024, MassHealth informed the appellant that she was eligible for MassHealth CommonHealth starting on May 18, 2024. (See 130 CMR 502.006 and Exhibit (Ex.) 1). The appellant filed an appeal in a timely manner on June 21, 2023. (See 130 CMR 610.015(B) and Ex. 2). Any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant's coverage on December 21, 2023, because she did not

provide proof in the time allow. Subsequently, on April 30, 2024, MassHealth notified the appellant that she was not eligible for MassHealth benefits because she had not responded to a new request for proof of residency that was due by April 21, 2024. On May 28, 2024, MassHealth notified the appellant that it had determined that she was eligible for MassHealth CommonHealth with a coverage start date of May 18, 2024.

Issue

The appeal issues are whether MassHealth correctly determined the start date of coverage pursuant to 130 CMR 502.006 or whether an earlier start date could be approved.

Summary of Evidence

At the hearing, MassHealth was represented by an eligibility worker from the Taunton MassHealth Enrollment Center (MEC) and the appellant represented herself. Both parties attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant is under the age of 65 years old and lives in a household of one. (Testimony; Ex. 3). MassHealth representative testified that MassHealth records indicated that the appellant was a tax filer, but the appellant disputed this.¹ (Testimony). At the time MassHealth sent the May 28, 2024 notice, the appellant's reported gross monthly income (GMI) was \$1,746 from Social Security, equivalent to 134.12% of the federal poverty level (FPL). (Testimony; Ex. 1).

According to MassHealth's records the appellant first started receiving CommonHealth on August 6, 2023. (Testimony; Ex. 3). In October 2023, MassHealth sent the appellant a request that she submit proof of her residency by November 14, 2023. (Testimony). The appellant did not submit a proof of residency by that date. (Testimony). For that reason, MassHealth notified the appellant in writing on December 7, 2023 that her CommonHealth would end on December 21, 2023 because she did not submit the proof of residency in the time allowed. (Testimony; Ex. 6). MassHealth sent this notice to Address One². (Testimony; Ex. 6). The appellant's CommonHealth coverage did, in fact, end on December 21, 2023. (Testimony; Ex. 3). The MassHealth representative testified that MassHealth did not have a record of the appellant appealing the December 7, 2023, notice. (Testimony).

¹ The appellant testified that she had been dealing with IRS issues for the past two years because someone had filed taxes in her name for 2022 and 2023 using her information and reporting that she was employed as an [REDACTED] a position she has never held. (Testimony). The appellant explained that she has not filed taxes herself because she is disabled and does not work. (Testimony).

² In order to protect the appellant's privacy, the two named street addresses identified in the hearing have been changed to the generic "Address One" and "Address Two".

The MassHealth representative testified that a note attached to the appellant's file in HIX³ stated that in March 2024 MassHealth received a self-attested submission stating that the appellant was residing at Address Two, an address completely different from the one that MassHealth had on file, which was Address One. (Testimony). In response, MassHealth requested that the appellant provide proof of her address by April 21, 2024. (Testimony; Ex. 7). When no proof of address was submitted by April 21, MassHealth issued a notice dated April 30, 2024, informing the appellant she continued to be ineligible because she had not submitted proof of residency by the requested date. (Testimony; Ex. 7).

On May 28, 2024, the appellant contacted MassHealth and was able to verify that she was residing at Address One. (Testimony). For that reason, MassHealth issued a notice on the same date informing the appellant that she had been approved for MassHealth CommonHealth beginning on May 18, 2024. (Testimony; Ex. 1; Ex. 3). Since MassHealth did not receive proof of the appellant's residency until May 28, and she did not have an open case at that time, MassHealth was only able to approve a start date 10 days prior to that date. (Testimony).

The MassHealth representative clarified that the self-attested address submitted in March indicated the appellant was residing at Address Two. (Testimony). However, the address submitted in May, which led to the approval, was Address One. (Testimony; Ex. 1). Additionally, the representative confirmed that all notices in the record were sent to Address One. (Testimony; Ex. 1; Ex. 6; Ex. 7).

The appellant testified to the following. The appellant did not understand why MassHealth was confused about her address to begin with. (Testimony). Address One had always been her address. (Testimony). The appellant did stay at Address Two in September 2023, when she was attending a rehabilitation program after being hospitalized at the end of August 2023. (Testimony). The appellant's permanent address, however, remained Address One. (Testimony). If MassHealth had checked her records, they would have seen that it had been Address One since 2021. (Testimony). The appellant posited that the problem may have been the program she was attending at Address Two had submitted a request for medical transportation services for the appellant from that address while she was there. (Testimony).

The appellant stated that she had trouble receiving and responding to notices from MassHealth because she was in and out the hospital repeatedly in late 2023 and early 2024. (Testimony). The appellant stated that she was hospitalized from [REDACTED] 2023, until [REDACTED] 2024 but was readmitted later in the month and remained there until [REDACTED] 2024. (Testimony). The appellant admitted that while she was in the hospital she did not have the opportunity to check the mail being sent to her at home. (Testimony). The appellant did eventually receive one of MassHealth's notices but did not have access to the means of responding to it quickly. (Testimony).

³ Short for Health Insurance Exchange/Integrated Eligibility System, which is the portal applicants, members, and agencies (MassHealth and the Health Connector) use for eligibility related interactions concerning MassHealth and the Connector.

As a result of the hospitalizations since December, the appellant now faced thousands of dollars in medical bills. (Testimony). The appellant stated that she always tried to do the right thing and would have informed MassHealth if she had moved, as she would not have wanted to jeopardize her coverage by failing to update her address. (Testimony). The appellant wanted MassHealth to consider approving an earlier start date. (Testimony).

Findings of Fact

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

1. The appellant is under the age of 65 years old and lives in a household of one. (Testimony; Ex. 3).
2. The appellant's most recently reported GMI is \$1,746 from Social Security. (Testimony; Ex. 1).
3. According to MassHealth's records the appellant first started receiving CommonHealth on August 6, 2023. (Testimony; Ex. 3).
4. In October 2023, MassHealth sent the appellant a request that she submit proof of her residency by November 14, 2023. (Testimony).
5. The appellant did not submit a proof of residency by that date. (Testimony).
6. For that reason MassHealth notified the appellant in writing on December 7, 2023 that her CommonHealth would end on December 21, 2023 because she did not submit the proof of residency in the time allowed. (Testimony; Ex. 6).
7. The appellant's CommonHealth coverage did, in fact, end on December 21, 2023. (Testimony; Ex. 3).
8. In March 2024 MassHealth received a self-attested submission stating that the appellant was residing at Address Two, an address completely different from the one that MassHealth had on file, which was Address One. (Testimony).
9. In response, MassHealth requested that the appellant provide proof of her address by April 21, 2024. (Testimony; Ex. 7).
10. The appellant was hospitalized from [REDACTED] 2023, until [REDACTED] 2024 but was readmitted later in that month and remained hospitalized until [REDACTED] 2024. (Testimony).
11. When no proof of address was submitted by April 21, MassHealth issued a notice dated April 30, 2024 informing the appellant she continued to be ineligible because she had not submitted proof of residency by the requested date. (Testimony; Ex. 7).

12. On May 28, 2024 the appellant contacted MassHealth and was able to verify that she was residing at Address One. (Testimony).
13. For that reason, MassHealth issued a notice on the same date informing the appellant that she had been approved for MassHealth CommonHealth beginning on May 18, 2024. (Testimony; Ex. 1; Ex. 3).
14. Since MassHealth did not receive proof of the appellant's residency until May 28, and she did not have an open case at that time, MassHealth was only able to approve a start date 10 days prior to that date. (Testimony).
15. The appellant submitted a request for a fair hearing to the Board of Hearings, which was received on June 21, 2024. (Ex. 2).
16. The appellant has resided at Address One since 2021, considers it her permanent address and MassHealth has consistently sent notices to this address. (Testimony; Ex. 1; Ex. 6; Ex.7).
17. The appellant did stay at Address Two in September 2023, when she was attending a rehabilitation program after being hospitalized at the end of August 2023. (Testimony).
18. The appellant was frequently hospitalized between [REDACTED] 2023 and [REDACTED] 2024 and not able to easily respond to MassHealth notices she received during that period. (Testimony).

Analysis and Conclusions of Law

MassHealth establishes coverage dates based on the individual's eligibility type. (130 CMR 502.006(A)). For MassHealth CommonHealth, the coverage start date is outlined in 130 CMR 502.006(A)(2)(a) through (d), with specific exceptions for cases of coverage downgrades (not applicable here). (130 CMR 502.006(A)(2);(C); 505.004(M)(1)). For most individuals, excluding those who are pregnant or under 19 years old, coverage begins ten days prior to the application date, provided all necessary verifications have been submitted. (130 CMR 502.006(A)(2)(b)). If an individual fails to provide the requested verifications within 90 days, MassHealth will determine eligibility based on available electronic data, with the coverage start date remaining ten days prior to the application date. (130 CMR 502.006(A)(2)(c)2). Should an individual be denied coverage due to missing verifications and later submits them, coverage will start ten days prior to the date MassHealth received the verifications or changes. (130 CMR 502.006(A)(2)(d)2).

MassHealth correctly determined the start date of coverage based on the information available on May 28, when the appellant submitted proof of residency that MassHealth verified. The appellant was not an active MassHealth recipient on that date and had not timely appealed two previous MassHealth notices concerning proof of residency. In accordance with the regulations, MassHealth decided that coverage would begin ten days prior to the date it received the verification, which

was May 18. MassHealth's determination regarding the coverage start date was appropriate at the time it was made.

The Board of Hearings (BOH) has jurisdiction over MassHealth actions when a request for a fair hearing is submitted in writing within 60 days after an applicant or member receives written notice from the MassHealth agency regarding an intended action. (130 CMR 610.015(B)(1)). Prior to sending the May 28 notice, MassHealth sent the appellant a denial on April 30. The appellant submitted an appeal, which BOH received on June 21, which was within 60 days of the dates MassHealth sent both the April 30 and May 28 notices, and therefore certainly was within 60 days of the date the appellant received these notices⁴. For that reason, BOH may take jurisdiction over both notices.

With that in mind, the regulations also state that the hearing officer may not exclude evidence at a hearing because it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. (130 CMR 610.071(A)(2)). The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted. (Id.).

At the hearing, the appellant credibly testified that she has resided at Address One continuously since at least [REDACTED] 2024. The appellant did spend long periods of time in the hospital from the end of 2023 until that date, but the appellant stated that Address One is her permanent address. Strengthening the appellant's testimony somewhat is the fact that all MassHealth notices in the record are addressed to the appellant at Address One. Considering 610.015(B)(1) and 610.071(A)(2), the coverage start date should be determined based on the April 30 notice. The record shows that the appellant was residing at Address One on April 30, so the coverage start date should be ten days prior to that date, which is April 20.

For that reason, the appeal is APPROVED IN PART.

An earlier start date, however, cannot be approved. The appellant's previous CommonHealth coverage ended after MassHealth notified the appellant in writing on December 7, 2023, that her coverage would end on December 21st for failure to submit proof of residency. There was no evidence that the appellant submitted or that the Board of Hearings received an appeal of that notice within 60 days. Furthermore, even though there are circumstances under which the regulations do permit appeals up to 120 days after a MassHealth action or inaction⁵ those

⁴ 130 CMR 610.015(B)(1) states that it will be presumed that the notice was received on the fifth day after mailing.

⁵ Unless waived by the BOH Director or designee, the appeal must be submitted within 120 days of the following MassHealth actions or inactions: (a) the application date if the MassHealth agency fails to act, (b) the service request date if the agency fails to act, (c) the action date if the agency fails to send written notice, or (d) the date of alleged coercive or improper conduct, with an affidavit confirming

circumstances are not evident here. Beyond that, even if those circumstances were evident, the appellant's fair hearing request was received on June 21, 2024, which was well beyond 120 days after December 7, 2023.

For that reason, the appeal is DENIED IN PART.

Order for MassHealth

Issue a new notice informing the appellant that she is eligible for MassHealth CommonHealth with a coverage start date of April 20, 2024.

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.

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.

Scott Bernard
Hearing Officer
Board of Hearings

Cc:

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

unawareness of the right to appeal or the conduct, and good faith in filing, allowed up to one year from the conduct date. (130 CMR 610.015(B)(2)).