

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Dismissed in part	Appeal Number:	2411184
Decision Date:	09/27/2024	Hearing Date:	08/13/2024
Hearing Officer:	Alexandra Shube	Record Open to:	09/16/2024

Appearances for Appellant:



Appearance for MassHealth:

Via telephone:

Kelly Souza, Taunton MEC



*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; Dismissed in part	Issue:	Under 65, Eligibility
Decision Date:	09/27/2024	Hearing Date:	08/13/2024
MassHealth's Rep.:	Kelly Souza	Appellant's Reps.:	
Hearing Location:	Taunton MassHealth Enrollment Center Remote	Aid Pending:	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 June 12, 2024, MassHealth informed the appellant that she was eligible for MassHealth Standard with a start date of June 12, 2024 (Exhibit 1).¹ The appellant filed this appeal in a timely manner on June 4, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Challenging a determination regarding the scope or amount of assistance is valid grounds for appeal (see 130 CMR 610.032).

¹ This was the only timely eligibility notice on which to base the eligibility appeal. As background, the appellant initially appealed a Commonwealth Care Alliance (CCA) notice dated May 24, 2024 that informed her that her CCA coverage would terminate on July 31, 2024 because she was no longer eligible for MassHealth Standard or CommonHealth. Appeal #2408795, based off the CCA notice, was scheduled and held on Friday, July 19, 2024 with a CCA representative. At hearing for appeal #2408795, it was apparent that it was a MassHealth eligibility issue and not an issue CCA could help with. The appellant did not receive any other eligibility notice from MassHealth related to her coverage being terminated. As the June 12, 2024 notice was the only timely eligibility notice, Board of Hearings created this current eligibility appeal (#2411184) based off this notice and the original Fair Hearing Request which was received on June 4, 2024 (based on the May 24, 2024 CCA notice). The Board of Hearings administrator who created the new appeal stated the appellant's MassHealth Standard would be protected by aid pending during the appeal process (the coverage was listed as terminated on June 12, 2024 despite the June 12 approval notice). The administrator also noted that MMIS reported the appellant's benefits were terminated on July 1, 2024, but there are no notices in any of the systems indicating the termination. See Exhibit 5.

Action Taken by MassHealth

MassHealth terminated the appellant's benefits and determined that the appellant was not eligible for MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct in terminating the appellant's benefits and determining that she was not eligible for MassHealth benefits.

Summary of Evidence

MassHealth was represented at the hearing via telephone by an eligibility worker from its over-65 unit. The appellant was represented at hearing via telephone by her mother and a caseworker from Open Sky Community Services.

The MassHealth representative explained that the appellant's case and eligibility determination have been complicated. She and her manager did a lot of research into the appellant's case prior to hearing to try to sort out the complications. The appellant is a [REDACTED] year-old disabled adult. Previously, the appellant had always had MassHealth in the under-65 unit; however, on June 6, 2024, MassHealth received a SACA renewal (the application for adults over 65 and for people needing long-term care coverage) on behalf of the appellant, not a renewal for someone under-65. A MassHealth member can only be in one of the systems at a time, either over- or under-65. With the receipt of the over-65 renewal, the appellant's under-65 case closed. The over-65 ongoing unit processed the application on June 12, 2024. Because the appellant is under the age of 65 and did not have a Department of Developmental Services (DDS) Waiver, she was not eligible for MassHealth benefits in the over-65 unit and her application was denied.²

The MassHealth representative explained that the appellant's over-65 case was closed out today but there is a 10-day waiting period during which the under-65 unit cannot run the appellant's case. She stated that she was told by her manager that once the waiting period ends and the under-65 unit can run the appellant's case, the appellant would be approved for MassHealth Standard going retroactive to July 31, 2024, the date of termination. If and when the DDS Waiver is approved, the appellant could be eligible for MassHealth Standard in the over-65 unit, but at this time she was not eligible for MassHealth in the over-65 unit.

The appellant's mother never received a notice from MassHealth regarding the change in or termination of coverage. The only way she found out was through the CCA notice she received. She has tried everything possible to get her daughter's coverage reinstated but was getting

² It was not clear why MassHealth issued the June 12, 2024 approval notice for MassHealth Standard.

different answer depending on whom she spoke to. She had filled out and sent in the DDS Waiver to the DDS caseworker on July 11, 2024 and thought she had filled out the correct application based on the information given to her. She had been told her daughter's MassHealth benefits were protected by aid pending during the appeal process, but when she has tried to access services for the appellant, she was told she did not have MassHealth Standard.³

The MassHealth worker stated that the under-65 unit would be able to run the case on August 27, 2024, which was ten business days from the date of the hearing (and the date MassHealth closed her over-65 case). The record in the appeal was initially held open August 30, 2024 to ensure the eligibility issue was resolved.

As of August 27, 2024, the appellant's MassHealth Standard was active, but the appellant's mother reported that there was an issue with the Adult Foster Care (AFC) program for which she hadn't received payment in three months due to the MassHealth issue. The appellant's CCA was no longer active and the AFC program could not submit the bill. The appellant also lost her primary care physician during this time. In an attempt to address the gap in coverage, the wrong aid pending category (Buy-In) was put back in place by Board of Hearings. According to the MassHealth representative, this prevented MassHealth from updating the case until September 30, 2024 when the aid pending would expire. At that time, the appellant's MassHealth Standard would go retroactive with no lapse in coverage. The record open period was extended again to be able to address the eligibility issue once September 30, 2024 arrived; however, on September 6, 2024, the MassHealth representative informed the appellant and this hearing officer via email that she was able to get the appellant's MassHealth Standard active from May 23, 2020 to present with no gap in coverage.

The appellant's mother was still having issues coordinating billing between her AFC program and CCA. The MassHealth worker and her manager went out of their way to try to make everything right, including offering to call CCA member services with the appellant's mother. On September 16, 2024, the MassHealth representative reported that the problem was with the AFC program. The appellant's mother had shared with her that the AFC had not sent authorization to CCA for payment since about April. The MassHealth representative provided the appellant's mother with information about "My Ombudsman." With this information and the appellant fully approved for MassHealth Standard with no gap in coverage, the record open period closed.

³ It appears that at the time this appeal was created, BOH protected MassHealth Aid Category 23 (disabled buy-in), which was the aid category that appeared to have been most recently terminated when BOH put in the protection.

Findings of Fact

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

1. The appellant is a [REDACTED] year-old disabled adult who had previously always been in the under-65 MassHealth unit (Testimony and Exhibit 4).
2. The appellant never received a termination notice from MassHealth, but on May 24, 2024, received a notice from CCA informing her that her CCA coverage would end on July 31, 2024 because she was no longer eligible for MassHealth Standard or CommonHealth (Testimony and Exhibit 2).
3. On June 6, 2024, MassHealth received a SACA renewal on behalf of the appellant, not an under-65 renewal (Testimony).
4. Because the appellant is under the age of 65 and did not have a DDS Waiver, she was not eligible for MassHealth benefits in the over-65 unit and her application was denied (Testimony).
5. The MassHealth representative at hearing was from the over-65 unit and closed out the appellant's over-65 case so that the under-65 unit could process it, but there was a mandatory ten-day waiting period before the under-65 unit could run the appellant's case (Testimony).
6. The record was initially held open until August 30, 2024 to resolve the eligibility issue. After some complications, the record open period ultimately closed on September 16, 2024. (Exhibit 7).
7. On September 6, 2024, the MassHealth representative stated that the appellant's MassHealth Standard was reinstated retroactively so there was no gap in coverage going back to May 23, 2020 (Exhibit 7).
8. After her MassHealth Standard was reinstated, the appellant's mother was still having issues with CCA coverage and getting payment for AFC services provided during the time the appellant had issues with her MassHealth coverage (Exhibit 7).

Analysis and Conclusions of Law

Pursuant to 130 CMR 516.006(B), MassHealth benefits terminate or downgrade no sooner than 14 days **from the date of the termination or downgrade notice**. Additionally, 130 CMR 516.008(B) states that the MassHealth agency **provides members notice of any changes in coverage type or loss of coverage**.

While it seems that the wrong application was submitted in June, the appellant never received a termination notice from MassHealth. There is no record of one being issued, other than the notice from CCA informing her that her CCA would end on July 31, 2024 because she was no longer eligible for MassHealth Standard or CommonHealth. Without proper notice, the appellant's benefits never should have terminated. To that extent, MassHealth incorrectly terminated the appellant's benefits and the appeal is approved.

During the course of the record open period, however, MassHealth was able to reinstate the appellant's MassHealth Standard coverage retroactively so there was no gap in coverage going back to May 23, 2020. As this resolves the eligibility issue on appeal, the appeal is dismissed.⁴

Order for MassHealth

None, other than to reinstate the appellant's MassHealth Standard benefits with no gap in coverage if not already done so.

⁴ The Board of Hearings has limited jurisdiction to redress complaints. Particularly, the Board of Hearings may only redress disputes arising from MassHealth determinations. See 130 CMR 610.032. Certain other limited areas of jurisdiction exist within the Board of Hearings that are not based upon MassHealth decisions or decisions by MassHealth contractors, such as decisions by a nursing facility to discharge or transfer a resident. See 130 CMR 610.032(C). Here, the only MassHealth related dispute is whether MassHealth correctly terminated the appellant's coverage and determined she was not eligible for MassHealth benefits. While I appreciate the difficulty the appellant's mother has had with the AFC billing CCA, those billing issues are outside of the Board of Hearings' jurisdiction.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

[REDACTED]

[REDACTED]

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