

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411262
Decision Date:	11/18/2024	Hearing Dates:	08/21/2024; 09/24/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Jacob Sommer, Charlestown MEC (Day 1); Kay Omokoya, Charlestown MEC (Day 2); Roxana Noriega, Premium Assistance (Day 2); Eileen Cynamon, Disability Evaluation Services (Day 2)



*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:	Denied	Issue:	Community Eligibility—under 65
Decision Date:	11/18/2024	Hearing Dates:	08/21/2024; 09/24/2024
MassHealth's Reps.:	Jacob Sommer; Kay Omokoya; Roxana Noriega; Eileen Cynamon	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	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 June 11, 2024, MassHealth denied the Appellant's application for MassHealth benefits for her minor child, on the grounds that the child had other health insurance. 130 CMR 505.002(M), (N); 130 CMR 522.004(C); and Exhibit 1. The Appellant filed this appeal in a timely manner on July 19, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth benefits for her minor child, on the grounds that the child had other health insurance.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(M), (N) and 130 CMR 522.004(C), in determining that the child was not eligible for MassHealth benefits.

Summary of Evidence

The hearing was held by telephone over the course of two days. The Appellant verified her child's identity. On the first day of hearing, the MassHealth representative testified that the household was made up of five individuals and that the child's MassHealth Family Assistance coverage was terminated on April 9, 2024, because the household income was too high to qualify at 459.18% of the federal poverty level (FPL). The MassHealth representative testified that Disability Evaluation Services had received a disability supplement from the Appellant for the child on May 29, 2024, but could not use it because it was missing information. The Appellant testified that the child has had a disability since birth and she is frustrated because she has sent in disability supplements multiple times. The Appellant also testified that she is concerned that the child does not have coverage through MassHealth, because he has had multiple hospitalizations at [REDACTED] Hospital, which are not covered by his other insurance. The MassHealth representative testified that he could not provide information on whether the Appellant had filed earlier disability supplements for the child.

On the second day of hearing, MassHealth was represented by an eligibility specialist, a premium assistance representative, and an appeals reviewer for Disability Evaluation Services. The eligibility specialist testified that the child was approved for MassHealth CommonHealth on September 18, 2024, and that his eligibility goes back to June 1, 2024. The appeals reviewer testified that Disability Evaluation Services had received other disability supplements from the Appellant on behalf of her child, but that they were incomplete. The appeals reviewer testified that in August 2024, a staff member from Disability Evaluation Services called the Appellant and that the disability supplement for the child was correctly completed on August 28, 2024. The appeals reviewer testified that the child's disability onset date is the date of birth because it is a congenital condition.

The Appellant testified that she never received a notice of the child's MassHealth coverage ending because she would not have allowed it to lapse. The Appellant testified that the child sees specialists at [REDACTED] Hospital regularly and that she is concerned about bills received from the hospital for services in February 2024. The Appellant also testified that the child's disability was one that he was born with, and that he should have had MassHealth CommonHealth as a secondary insurance all along.

Findings of Fact

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

1. The Appellant's minor child has a verified disability. Testimony.
2. The Appellant's child's disability has been present since birth. Testimony.
3. The Appellant's child has a household size of five and a household income, which is 459.18% of the federal poverty level. Testimony.
4. On June 11, 2024, MassHealth notified the Appellant that the Appellant's child did not qualify for MassHealth because the child had other insurance. Exhibit 1.
5. On July 19, 2024, the Appellant timely filed an appeal of this decision. Exhibit 2.
6. On August 28, 2024, Disability Evaluation Services received a completed disability supplement for the Appellant's child. Testimony.
7. On September 18, 2024, MassHealth approved the Appellant's child for MassHealth CommonHealth as of June 1, 2024. Testimony.
8. Previously, the child had MassHealth Family Assistance until December 31, 2023, and then again from March 25, 2024 until April 23, 2024. Testimony; Exhibit 4.

Analysis and Conclusions of Law

MassHealth regulations provide as follows:

502.003: Verification of Eligibility Factors

The MassHealth agency requires verification of eligibility factors including income, residency, citizenship, immigration status, and identity as described in 130 CMR 503.000: Health Care Reform: MassHealth: Universal Eligibility Requirements, 130 CMR 504.000: Health Care Reform: MassHealth: Citizenship and Immigration, and 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements.

....

(2) Limitations. Provisional eligibility is subject to the following limitations.

(a) Provisional eligibility is not available for adults 21 years of age or older who have not verified all income in their MAGI household, as described at 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements, unless the individual is

1. pregnant and has attested MAGI income at or below 200% of the federal poverty level (FPL);
2. 21 through 64 years of age and HIV-positive with attested MAGI income at or below 200% of the FPL; or
3. in active treatment for breast or cervical cancer and is younger than 65 years old with attested MAGI income at or below 250% of the FPL.

(b) The MassHealth agency will not accept self-attestation of disability. Disability must be verified as described in 130 CMR 505.002(E)(1): Disabled Adults. Eligibility for applicants who apply for benefits on the basis of disability will be determined as if they were not disabled until disability is verified as described in 130 CMR 505.002(E)(1): Disabled Adults.

130 CMR 502.003(E)(2)(a) and (b)(emphasis added)

502.006: Coverage Dates

(A) Start Date of Coverage for Applicants. For individuals applying for coverage, the date of coverage for MassHealth is determined by the coverage type for which the applicant may be eligible. 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types describes the rules for establishing this date, except as specified in 130 CMR 502.003(E)(1), (F)(2), and (H)(2).

(1) The start date of coverage for individuals approved for benefits under provisional eligibility is described at 130 CMR 502.003(E)(1).

(2) The start date of coverage for individuals who do not meet the requirements for provisional eligibility, as described at 130 CMR 502.003(E)(2)(a), is described at 130 CMR 502.006(A)(2)(a) through (d), except individuals described at 130 CMR 502.006(C).

(a) The start date for individuals who are pregnant or younger than 19 years of age who submit all required verifications within the 90-day time frame is described in 130 CMR 502.006(A)(2)(a)1. and 2.

1. If covered medical services were received during such period, and the individual would have been eligible at the time services were provided, the start date of coverage is determined upon receipt of the requested verifications and may be retroactive to the first day of the third calendar month before the month of application except as specified in 130 CMR 502.006(C).

2. If covered medical services were not received during such period, or the individual would not have been eligible at the time services were provided, the start date of coverage is determined upon receipt of the requested verifications and coverage begins ten days prior to the date of application, except as specified in 130 CMR 506.006(C).

(b) For individuals not described in 130 CMR 502.006(A)(2)(a) who submit all required verifications within the 90-day time frame, the start date of coverage is determined upon receipt of the requested verifications and coverage begins ten

days prior to the date of application, except as specified in 130 CMR 502.006(C).

(B) Coverage Dates for Existing Members Who Have a Change in Benefits. The date of coverage for existing members whose MassHealth coverage type changes due to a change in circumstances are described in 130 CMR 502.006(B)(1) through (4).

(1) For existing members who are pregnant or younger than 19 years of age, when an eligibility determination results in a more comprehensive benefit, except as described in 502.006(C)

(a) if covered medical services were received during such period, and the individual would have been eligible at the time services were provided, the start date of the new coverage may be retroactive to the first day of the third calendar month prior to

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(b) if covered medical services were not received during such period, or the individual would not have been eligible at the time services were provided, the start date of the new coverage is ten days prior to

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(2) for existing members not described in 130 CMR 502.006 (B)(1), when an eligibility determination results in a more comprehensive benefit, except as described at 130 CMR 502.006(C), the start date of the new coverage is ten days prior to

- (a) the receipt of the requested verifications;
- (b) the receipt date of the annual renewal;
- (c) the date of the eligibility determination for reported changes that do not result in request for verification; or
- (d) the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(3) for existing members whose eligibility determination results in a less comprehensive benefit, the end date of the existing coverage is no sooner than 14 days from the date of the notice unless the MassHealth member files an appeal in a timely manner and requests continued MassHealth benefits pending such an appeal or reinstatement of benefits as described at 130 CMR 610.036: Continuation of Benefits Pending Appeal and the start date of the new coverage is ten days prior to

- (a) the receipt of the requested verifications;
 - (b) the receipt date of the annual renewal;
 - (c) the date of the eligibility determination for reported changes; or
 - (d) the date of the MassHealth agency's eligibility determination due to information in the member's case file;
- (4) for existing members, effective dates for changes in premium payments are described at 130 CMR 506.011(C).

(emphasis added)

(C) Limitations. MassHealth coverage start dates are subject to the following limitations.

- (1) The start date for Medicare premium payments for individuals determined eligible for MassHealth Standard, MassHealth CommonHealth, and MassHealth Medicare Savings Programs is described at 130 CMR 505.002(O), 505.004(L), and 505.007.
- (2) The start date for Premium Assistance Payments for individuals eligible for MassHealth Standard, MassHealth CommonHealth, MassHealth Family Assistance, and MassHealth CarePlus is described at 130 CMR 506.012(F)(1)(d).

505.004: MassHealth CommonHealth

(A) Overview.

- (1) 130 CMR 505.004 contains the categorical requirements and financial standards for CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.
- (2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): MassHealth CommonHealth.

....

(G) Disabled Children Younger than 18 Years Old. Disabled children younger than 18 years old must meet the following requirements:

- (1) be permanently and totally disabled, as defined in 130 CMR 501.001: Definition of Terms;
- (2) be ineligible for MassHealth Standard; and
- (3) be a citizen as described at 130 CMR 504.002: U.S. Citizens, lawfully present immigrant, or a nonqualified PRUCOL, as described in 130 CMR 504.003: Immigrants.

(H) Determination of Disability. Disability is established by

- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
- (2) a determination of disability by the SSA; or
- (3) a determination of disability by the Disability Evaluation Services (DES).

(I) MassHealth CommonHealth Premium. Disabled adults, disabled working adults, disabled young adults, and disabled children who meet the requirements of 130 CMR 505.004 may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). No premium is assessed during a deductible period.

(J) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits, in accordance with 130 CMR 503.007: Potential Sources of Health Care, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by the MassHealth agency in accordance with 130 CMR 505.002(O) and 130 CMR 506.012: Premium Assistance Payments. Members must access those other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

....

(M) Medical Coverage Date.

(1) The medical coverage date for MassHealth CommonHealth is described at 130 CMR 502.006: Coverage Dates, except as described at 130 CMR 505.004(M)(2) and (3).

(2) Persons described in 130 CMR 505.004(C) who have been notified by the MassHealth agency that they must meet a one-time deductible have their medical coverage date established in accordance with 130 CMR 506.009(E): Notification of the Deductible.

(3) Provisional eligibility is described in 130 CMR 502.003(E): Provisional Eligibility.

(N) Extended CommonHealth Coverage. MassHealth CommonHealth members (described in 130 CMR 505.004(B)) who terminate their employment, continue to be eligible for MassHealth CommonHealth for up to three calendar months after termination of employment provided they continue to make timely payments of monthly premiums.

I am sorry for the Appellant's situation and credit their frustration. However, in reviewing the MassHealth regulations regarding the start date of MassHealth CommonHealth benefits for the child, the Appellant has not established that MassHealth erred in finding that coverage began on June 1, 2024. Due to the household income being above 133% of the federal poverty level and that the child's eligibility is based on disability, the child is not provisionally eligible for MassHealth benefits. 130 CMR 502.003(E)(2)(b). Under 130 CMR 502.006(A)(2)(a)1., eligibility for the child begins upon "receipt of the requested verifications and may be retroactive to the first day of the third calendar month before."

Therefore, 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 receipt of this decision.

Emily Sabo
Hearing Officer
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

Premium Assistance

Disability Evaluation Services