

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2412045
<b>Decision Date:</b>	11/4/2024	<b>Hearing Date:</b>	08/26/2024
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**



**Appearances for MassHealth:**

Anastasia Agnos, MassHealth Enrollment Center (MEC); Carmen Fabery, Premium Billing Unit (PBU)



*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>	Dismissed in part; Denied in part	<b>Issue:</b>	Community Eligibility – Under 65 Years of Age; Premium Billing
<b>Decision Date:</b>	11/4/2024	<b>Hearing Date:</b>	08/26/2024
<b>MassHealth's Reps.:</b>	Anastasia Agnos, MassHealth Enrollment Center (MEC); Carmen Fabery, Premium Billing Unit (PBU)	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<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 06/15/2024, MassHealth informed the appellant's mother<sup>1</sup> that it approved the appellant for MassHealth CommonHealth benefits with a premium of \$312.00 each month starting in July 2024 (Exhibit 1A). Through a notice dated 07/22/2024, MassHealth informed the appellant's mother that it would terminate the appellant's MassHealth CommonHealth benefits on 08/05/2024 because she withdrew the application (130 CMR 502.009; Exhibit 1B).

On 08/05/2024, the appellant's mother filed a request for a fair hearing; timely to both of the above notices (130 CMR 610.015; Exhibit 2). Termination of assistance and a change in the level of assistance are valid grounds for appeal (130 CMR 610.032).

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<sup>1</sup> The appellant is a minor child who was represented in these proceedings by his mother, who is the head of the household on the MassHealth case.

## **Action Taken by MassHealth**

MassHealth terminated the appellant's MassHealth CommonHealth benefits.

## **Issue**

The first issue is whether MassHealth correctly determined that the appellant is eligible for MassHealth CommonHealth benefits with a monthly premium of \$312.00 beginning on 07/01/2024. The second issue is whether MassHealth is correct in terminating the appellant's MassHealth CommonHealth benefits for voluntary withdrawal.

## **Summary of Evidence**

A MassHealth representative from the PBU and the MassHealth representative from the MEC testified that a new case was opened on 01/08/2024 when MassHealth received an application for the appellant. The appellant is a minor child and part of a household of three. The appellant's mother is the head of household. Initially the case was denied because the appellant's family was over the income guidelines. On 03/04/2024, a disability was entered into the system and the appellant was determined to be eligible for MassHealth CommonHealth benefits retroactive to 12/29/2023. MassHealth calculated a monthly premium of \$211.40 for the appellant's CommonHealth benefits. This was based on the family's countable income of \$159,500.00 annually, which is 504% of the federal poverty level (FPL). The appellant's mother was billed \$211.40 for the months of April, May, and June 2024, totaling \$634.20.

On 06/15/2024, an income change was reported to MassHealth, and the case was redetermined. MassHealth again approved the appellant's MassHealth CommonHealth benefits and calculated a monthly premium of \$312.00, beginning on 07/01/2024. MassHealth determined that the household's income increased to 610.80% of the FPL (Exhibit 1A).

On 07/22/2024, the appellant's mother contacted MassHealth to cancel the appellant's MassHealth CommonHealth benefits (Exhibit 1B).

MassHealth informed the appellant that it would terminate the appellant's MassHealth CommonHealth benefits on 08/05/2024. The MassHealth PBU representative testified that the communication was received within 60 days of the 06/15/2024 notice, so it cancelled the appellant's benefits and did not charge the appellant's mother for the premium payments billed from 07/01/2024 forward. However, because the appellant's cancellation was not within 60 days of the 03/04/2024 approval notice, MassHealth would not waive the \$211.00 monthly premiums billed for April, May, and June 2024. Her total balance is \$634.20.

The appellant's mother testified that the "bill is unjust." She stated that she applied for MassHealth as a "secondary insurance" for the appellant, an autistic child, to cover the co-payments for his medical care. The mother testified that she began receiving bills in the spring and "tried to call MassHealth but was hung up on and disconnected." She concluded that she does not want to pay the \$600.00 bill because they have private health insurance and never used the MassHealth benefit "at all." She also added that she was "incredibly disappointed."

## Findings of Fact

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

1. The appellant is a minor child and part of a household of three people. His mother is the head of household on the MassHealth case, and she represented him in these proceedings (Testimony).
2. A new MassHealth case was opened on 01/08/2024, when MassHealth received an application for the appellant.
3. On 03/04/2024, a disability was entered into the system and the appellant was determined to be eligible for MassHealth CommonHealth benefits retroactive to 12/29/2023. MassHealth calculated a monthly premium of \$211.40 for the appellant's CommonHealth benefits. This was based on the family's countable income of \$159,500.00 annually, which is 504% of the federal poverty level (FPL).
4. The appellant's mother was billed \$211.40 for the months of April, May, and June 2024, totaling \$634.20.
5. On 06/15/2024, an income change was reported to MassHealth, and the case was redetermined. MassHealth again approved the appellant's application for MassHealth CommonHealth benefits and calculated a monthly premium of \$312.00, beginning on 07/01/2024. MassHealth determined that the household's income increased to 610.80% of the FPL.
6. On 07/22/2024, the appellant's mother contacted MassHealth to cancel the appellant's benefits.
7. MassHealth informed the appellant that it would terminate the appellant's MassHealth CommonHealth benefits on 08/05/2024.
8. On 08/05/2024, the appellant's mother filed her request for a fair hearing with the Board of

Hearings.

9. MassHealth cancelled the appellant's benefits and did not charge the appellant's mother for the premium payments billed from 07/01/2024 forward.

## Analysis and Conclusions of Law

Fair Hearing Regulations at 130 CMR 610.015(B), time limitation on the right of appeal, state:

The date of request for a fair hearing is the date on which BOH receives such a request in writing. ***BOH must receive the request for a fair hearing within the following time limits: (1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action.*** Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;...

Regulations at 130 CMR 610.035 address dismissal of a request for a hearing, as follows:

(A) BOH will dismiss a request for a hearing when

- (1) ***the request is not received within the time frame specified in 130 CMR 610.015;***
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary, constitutes an appealable action hereunder;
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;
- (6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;
- (7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;
- (8) ***BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;***
- (9) BOH learns that the applicant or member has passed away before or after the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;
- (10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling of the hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or

(11) the appellant fails to appear at a scheduled hearing.

Regulations at 130 CMR 610.051(B) address adjustments resolving issues, as follows:

The MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period. ***If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues***, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. BOH will not delay a fair hearing because a possible adjustment is under consideration, unless the appellant requests or agrees to such a delay.

MassHealth regulations at 130 CMR 502.009 address voluntary withdrawal, as follows:

The applicant or authorized representative may voluntarily withdraw their application for MassHealth.

***(Emphasis added.)***

Chronologically, MassHealth issued its first notice at issue in this appeal on 03/04/2024. It was an approval of the appellant's application for MassHealth benefits. MassHealth calculated a monthly premium of \$211.40. According to the above regulations, for the Board of Hearings to have jurisdiction over a matter, a request for a hearing must be made within 60 days of the date of the notice. The appellant's request for a hearing was received by the Board of Hearings on 08/05/2024, well beyond the 60 days. Therefore, any challenges to MassHealth's actions as noticed on 03/04/2024 are dismissed, as the appeal is not timely to that notice.

Next, MassHealth issued a notice on 06/15/2024, informing the appellant that the monthly premium for his MassHealth CommonHealth benefits would increase to \$312.00, effective on 07/01/2024. The appellant's mother contacted MassHealth on 07/22/2024 to voluntarily withdraw the appellant's MassHealth benefits. MassHealth cancelled the benefits and cancelled the premiums billed for 07/01/2024 forward. As MassHealth made an adjustment that resolves the action noticed on 06/15/2024 in favor of the appellant, this portion of the appeal is dismissed.

On 07/22/2024, MassHealth informed the appellant that it would close his MassHealth CommonHealth benefits on 08/05/2024, based on a voluntary withdrawal. At the fair hearing, the appellant stated she did not want to pay for the benefits, and she confirmed that she contacted MassHealth to cancel them. Since the appellant agrees with the MassHealth termination notice, this portion of the appeal is therefore denied.

For the foregoing reasons, this appeal is dismissed in part; denied in part.

## **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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186