

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in Part; Denied in Part	<b>Appeal Number:</b>	2412447
<b>Decision Date:</b>	10/28/2024	<b>Hearing Date:</b>	09/09/2024
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Faisal Mugimi, Charlestown 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>	Approved in Part; Denied in Part	<b>Issue:</b>	Under 65; Eligibility; Start Date
<b>Decision Date:</b>	10/28/2024	<b>Hearing Date:</b>	09/09/2024
<b>MassHealth's Rep.:</b>	Faisal Mugimi	<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 August 8, 2024, MassHealth approved the appellant for MassHealth Standard benefits with a start date of July 15, 2024. *See* 130 CMR 502.003(D)(2)(c) and Exhibit 1. The appellant filed this appeal in a timely manner on August 12, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved the appellant for MassHealth Standard benefits and imposed a start date of July 15, 2024.

### Issue

The appeal issue is whether MassHealth correctly imposed the start date for the appellant's MassHealth Standard benefits.

### Summary of Evidence

The appellant is an adult under the age of 65 who financially qualifies for MassHealth Standard

benefits. MassHealth was represented at the hearing by a worker from the Charlestown MassHealth Enrollment Center. The following is a summary of the testimony and evidence provided at the hearing.

Prior to February 8, 2024, the appellant was a MassHealth Standard member. On October 17, 2023, as a part of her renewal application, MassHealth sent a Request for Information requiring verification of proof of the appellant's Massachusetts residency. When MassHealth did not receive that information as of January 25, 2024, her benefits were terminated with an effective date of February 8, 2024. On July 15, 2024, the appellant submitted a residency affidavit confirming that she lives in Massachusetts. Based on that, on August 8, 2024, MassHealth issued a notice approving the appellant for MassHealth Standard with an effective start date of July 15, 2024.

The appellant reported that when she received the Request for Information in October of 2023, she called MassHealth and believed that she resolved the issue and complied with the request. She testified that she did not receive the January 25 termination notice and was not aware that her benefits were inactive. In April of 2024, she was hospitalized for several days and was sent an \$1800.00 bill charging her for what Medicare did not cover. At that point, she consulted again with MassHealth and was instructed on how to submit the residency affidavit. She argued that she did her best to comply with the October 2023 Request for Information and explained that she has resided at her current address for three years and lived in the Commonwealth for the last 10-15 years. She asked for her benefits to be approved retroactively to cover the cost of her hospital stay from April of 2024.

## **Findings of Fact**

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

1. The appellant is an adult under the age of 65 who currently receives MassHealth Standard benefits. Testimony, Exhibit 1, Exhibit 4.
2. On October 17, 2023, MassHealth sent the appellant a Request for Information for verification of her proof of residency. Testimony.
3. When MassHealth did not receive a response to that request, the appellant's benefits were terminated pursuant to a notice dated January 25, 2024, with an effective date of February 8, 2024. Testimony, Exhibit 4.
4. MassHealth received a residency affidavit for the appellant on July 15, 2024. Testimony.
5. On August 8, 2024, MassHealth issued a notice approving the appellant for MassHealth

Standard benefits with an effective start date of July 15, 2024. Exhibit 1.

6. The appellant filed a timely request for fair hearing of the August 8 notice on August 12, 2024. Exhibit 2. That request was not made within 120 days of the January 24, 2024, termination notice.

## **Analysis and Conclusions of Law**

MassHealth is responsible for the administration and delivery of relevant services to eligible low- and moderate-income individuals, couples, and families. 130 CMR 501.002(A). As a condition of eligibility, “an applicant must be a resident of the Commonwealth of Massachusetts.” 130 CMR 503.002. An individual’s residency is confirmed in the following manner:

(E) (1) The individual's residency is considered verified if the individual has attested to Massachusetts residency and the residency has been confirmed by electronic data matching with federal or state agencies or information services.

(2) If residency cannot be verified through electronic data matching or there is conflicting information, the MassHealth agency may require documentation to validate residency.

(F) Acceptable proof of Massachusetts residency includes the following, as well as any other verification allowed as determined by the MassHealth agency:

(1) copy of deed and record of most recent mortgage payment (if mortgage is paid in full, provide a copy of property tax bill from the most recent year);

(2) current utility bill or work order dated within the past 60 days;

(3) statement from a homeless shelter or homeless service provider;

(4) school records (if school is private, additional documentation may be requested);

(5) nursery school or daycare records (if school is private, additional documentation may be requested);

(6) Section 8 agreement;

(7) homeowner’s insurance agreement;

(8) proof of enrollment of custodial dependent in public school;

(9) copy of lease and record of most recent rent payment; or

(10) affidavit supporting residency signed under pains and penalties of perjury that states the individual is not visiting Massachusetts for personal pleasure or to receive medical care in a setting other than a nursing facility.

130 CMR 503.002(E)-(F). MassHealth members are required to “cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility...” 130 CMR 501.010(A).

MassHealth further requires verification of eligibility factors including “income, residency, citizenship, immigration status, and identity.” 130 CMR 502.003. The agency first attempts to electronically match this data with federal and state agency sources without requiring any information from the applicant/member. *Id.* at 502.503(A). If those electronic data sources are unable to verify the information, MassHealth is required to send a Request for Information to the applicant/member “listing all requested verifications and the deadline for submission of the requested verifications.” *Id.* at 502.003(B)-(C). The applicant/member typically has 90 days from receipt of the Request for Information to respond. *Id.* at 502.003(D)(1). If the information is not received within those 90 days and is unable to be electronically verified, “MassHealth coverage is denied or terminated.” *Id.* at 502.003(D)(2)(b). If the requested verifications are later received within “one year from the date of the application or the renewal form is received, coverage is reinstated to a date 10 days before the receipt of the verifications.” *Id.* at 502.003(D)(2)(c).

Before MassHealth takes an “intended appealable action, the MassHealth agency must send a written timely notice to the member...[and] must include a statement of the right of appeal.” 130 CMR 610.015(A). A full list of appealable actions may be found at 130 CMR 610.034, and includes “agency action to suspend, reduce, terminate, or restrict a member’s assistance.” *Id.* at 610.034(3). A request for fair hearing is defined as “a written statement by the appellant that asks for administrative review of an appealable action.” 130 CMR 610.034. Such a request must generally, with exceptions, be made either within 60 days “after an applicant or member receives written notice from...MassHealth...of the intended action,” or “120 days from...the date of MassHealth agency action when the MassHealth agency fails to send notice of the action.” 130 CMR 610.015(B)(1) and (2)(c).

An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” For the reasons stated herein, I find that the appellant has failed to meet this burden in arguing that her MassHealth Standard benefits should be reinstated to the initial date of termination of February 8, 2024. However, the evidence shows that the appellant’s benefits should have been reinstated with an effective date of July 5, 2024, not July 15.

The appellant argues that she made her best efforts to provide MassHealth with her residency verification in October of 2023, and that she believed she complied with MassHealth’s request for information. Whether that is true or not, she did not appeal the January 25, 2024, termination notice within 60 days, as required by 130 CMR 610.015(B)(1). Further, although she testified that she never received that notice, her fair hearing request was also not made within 120 days as required by 130 CMR 610.015(B)(2)(c). I am therefore without the authority to determine whether the termination of the appellant’s benefits in February was proper and may only decide

whether MassHealth complied with the regulations in imposing the new benefit start date of July 15, 2024.

At the hearing, the MassHealth representative testified that the appellant's residency affidavit was received by MassHealth on July 15, 2024. As this was responsive to the Request for Information sent on October 17, 2023, and was received within one year, 130 CMR 502.003(D)(2)(c) dictates that the appellant's MassHealth Standard benefits should have been reinstated to a date 10 days prior to receipt of the residency affidavit. Thus, I find that MassHealth erred in the issuance of the August 8, 2024, notice, and the appellant's start date for benefits should be July 5, 2024.

For the foregoing reasons, the appeal is hereby approved in part and denied in part.

## **Order for MassHealth**

Backdate the start date for the appellant's MassHealth Standard benefits to July 5, 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.

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Mariah Burns  
Hearing Officer  
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center