

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved/ Dismissed	<b>Appeal Number:</b>	2412678
<b>Decision Date:</b>	09/26/2024	<b>Hearing Date:</b>	09/19/2024
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearances for Appellant:**



**Appearances for MassHealth:**

Rachel Dorsey, Quincy MEC  
Roxana Noriega, Premium Assistance

**Interpreter:**



*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/ Dismissed	<b>Issue:</b>	Eligibility/Premium Assistance
<b>Decision Date:</b>	09/26/2024	<b>Hearing Date:</b>	09/19/2024
<b>MassHealth's Reps.:</b>	Rachel Dorsey, Roxana Noriega	<b>Appellant's Reps.:</b>	
<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

On July 16, 2024, MassHealth informed Appellant that it would terminate MassHealth benefits for his household effective September 14, 2024 because he did not enroll all household members in employer sponsored insurance (ESI) (130 CMR 503.007 and Exhibit 1). Appellant appealed this matter in a timely manner on August 15, 2024 (130 CMR 610.015 and Exhibit 2). Termination of MassHealth benefits is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified Appellant that it would terminate MassHealth benefits for his household effective September 14, 2024 because he did not enroll all household members in employer sponsored insurance (ESI).

## Issue

The issue on appeal is whether MassHealth was correct in issuing notice that it would terminate MassHealth benefits for Appellant's household effective September 14, 2024 because Appellant did not enroll all household members in employer sponsored insurance (ESI).

## Summary of Evidence

The MassHealth representative testified that Appellant and his family are a household of 9 including Appellant, his spouse, and 7 children, all of whom are under 21 years of age. MassHealth testified that in March 2024 Appellant was listed as the only household member and was eligible for a Connector Care Plan. On May 30, 2024, other members were added to the household. Appellant's \$3,623 monthly income reduced the federal poverty level from 236% to 54.19% with the addition of other household members. Appellant and his spouse are receiving MassHealth Standard coverage, and the 7 children were initially receiving Family Assistance, which changed to Children's Medical Security Plan (CMSP) with Limited coverage. After reviewing immigration documentation submitted by Appellant prior to the hearing, MassHealth determined that Appellant and his spouse, and 7 children are eligible for MassHealth Standard (Exhibits 4, 5). Appellant is employed and has access to employer sponsored insurance (ESI), which MassHealth determined meets the criteria for Premium Assistance payments. Premium Assistance testified that by notice dated July 16, 2024, Appellant was informed that he was required to enroll himself, his spouse, and 7 children in the ESI because Appellant and his spouse were receiving MassHealth Standard coverage, and the 7 children were receiving Family Assistance. Because Appellant and his spouse continue to receive MassHealth Standard coverage, Appellant and his spouse are required to enroll in ESI; however, because Appellant's children are presently receiving Standard coverage and are all under 21 years of age, the children are not required to enroll in ESI under 130 CMR 503.007. The MassHealth representative explained that after enrolling in ESI, it would become the primary insurance with MassHealth Standard coverage as a secondary insurance. The Premium Assistance representative testified that based on the health insurance plan submitted by Appellant's employer, if Appellant, his spouse and children enrolled in ESI, premium assistance payments would pay for the entire cost of the ESI. If Appellant's children are not enrolled in ESI, Appellant would be responsible for \$42.93 per month for ESI for himself and his spouse because the cost of the family plan would increase to \$670.93 per month, and premium assistance payments would be limited to \$628 per month. A new qualifying event letter will issue that will allow Appellant to enroll in ESI, and Appellant and his spouse will be required to enroll in ESI within 60 days. The MassHealth representative testified that because household eligibility was redetermined and all household members are now eligible for Standard, the coverage would remain in effect during the new 60-day period requiring Appellant and his spouse to enroll in ESI, with the option to enroll household members receiving MassHealth Standard and who are under 21 years of age.

Appellant's representatives testified that Appellant would prefer that he, his spouse, and his children remain on MassHealth Standard coverage without enrolling in ESI which might require changes in providers and scheduled medical appointments.

## Findings of Fact

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

1. Appellant and his family are a household of 9 including Appellant and his spouse, and 7 children.
2. Appellant and his spouse are receiving MassHealth Standard coverage.
3. Appellant's 7 children, all of whom are under 21 years of age, were initially receiving Family Assistance, which changed to Children's Medical Security Plan (CMSP) with Limited coverage, and are now receiving MassHealth Standard coverage.
4. Appellant is employed and has access to employer sponsored insurance (ESI), which MassHealth determined meets the criteria for Premium Assistance payments.
5. By notice dated July 16, 2024, Appellant was informed that he was required to enroll himself, his spouse and 7 children in his ESI because Appellant and his spouse were receiving MassHealth Standard coverage, and the 7 children were receiving Family Assistance.
6. A new qualifying event letter will issue that will allow Appellant to enroll in ESI, and Appellant and his spouse will be required to enroll in ESI within 60 days.

## Analysis and Conclusions of Law

MassHealth Regulations at 130 CMR 503.007 address potential sources of health care as follows:

The MassHealth agency is the payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law.

(A) Health Insurance. Every applicant and member **must obtain and maintain available health insurance** in accordance with 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*. Failure to do so may result in loss or denial of eligibility **unless the applicant or member is:**

- (1) receiving MassHealth Standard or MassHealth CommonHealth; and**
- (2) younger than 21 years of age or pregnant.**

(B) Use of Benefits. The MassHealth agency does not pay for any health care and related services that are available

- (1) through the member's health insurance, if any; or
- (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services.

(C) Employer-sponsored Health Insurance. The MassHealth agency may enroll MassHealth members in available employer-sponsored health insurance if that insurance meets the criteria for payment of premium assistance under 130 CMR 506.012(B): *Criteria*.<sup>1</sup>

**(Emphasis added)**

Appellant and his spouse are over 21 years of age and are presently receiving MassHealth Standard coverage. Therefore, Appellant and his spouse are required to obtain and maintain health insurance, and Appellant has ESI available through his employer that meets the requirements for premium assistance.<sup>2</sup> The applicable regulation would also require Appellant's

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<sup>1</sup> See 130.CMR 506.012(B) Criteria. MassHealth may provide a premium assistance payment to an eligible member when all of the following criteria are met.

- (1) The health insurance coverage meets the Basic Benefit Level (BBL) as defined in 130 CMR 501.001: *Definition of Terms*. Instruments including but not limited to Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.
- (2) The health insurance policy holder is either
  - (a) in the PBFG; or
  - (b) resides with the individual who is eligible for the premium assistance benefit and is related to the individual by blood, adoption, or marriage.
- (3) At least one person covered by the health insurance policy is eligible for MassHealth benefits as described in 130 CMR 506.012(A) and the health insurance policy is a policy that meets the criteria of the MassHealth coverage type for premium assistance benefits as described in 130 CMR 506.012(C).

<sup>2</sup> See 130 CMR 505.002(N) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Standard.

- (1) MassHealth may perform an investigation to determine if individuals receiving MassHealth Standard
  - (a) have health insurance that MassHealth may help pay for; or
  - (b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.
- (2) The individual receives MassHealth Standard while MassHealth investigates the insurance.

children who are under 21 years of age in to enroll in Appellant's ESI when the children were eligible for Family Assistance. However, since the coverage type for all of the children has changed to MassHealth Standard, the children, who are all under 21 years of age, are not required to enroll in ESI.<sup>3</sup> Further, MassHealth determined thatm, because household eligibility was redetermined based on information presented at hearing and all household members are eligible for Standard, coverage would remain in effect during the new 60-day period requiring Appellant and his spouse to enroll in ESI. Thus, all issues related to the July 16, 2024 notice have resolved to Appellant's favor in that the September 14, 2024 termination of coverage has been rescinded, and all household members will continue to receive MassHealth Standard pending the issuance of a new qualifying event letter that will require Appellant and his spouse to enroll in ESI within 60 days.

Accordingly, pursuant to 130 CMR 610.051, 610.035(A)(8), the appeal is APPROVED and DISMISSED.

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(a) Investigations for Individuals Who Are Enrolled in Health Insurance.

1. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Standard Premium Assistance Payments as described at 130 CMR 506.012: *Premium Assistance Payments*.
2. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is eligible for MassHealth Standard Direct Coverage.
3. Individuals described at 130 CMR 505.002(F)(1)(d) will not undergo an investigation.

(b) Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance.

1. If MassHealth determines the individual has access to employer-sponsored health insurance and the employer is contributing at least 50% of the premium cost and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Standard Premium Assistance Payments as described in 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 21 years old or is pregnant.
2. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual is eligible for MassHealth Standard Direct Coverage.
3. Individuals described at 130 CMR 505.002(F) and (G) will not undergo an investigation

See also 130 CMR 450.105(A)(5): Purchase of Health Insurance. The MassHealth agency may purchase third-party health insurance for MassHealth Standard members, with the exception of members described at 130 CMR 505.002(F): *Individuals with Breast or Cervical Cancer*, if the MassHealth agency determines such premium payment is cost effective. Under such circumstances, the MassHealth agency pays a provider only for those services listed in 130 CMR 450.105(A)(1) that are not available through the member's third-party health insurer.

<sup>3</sup> The MassHealth determination that the children are now eligible for Standard coverage is outside the scope of this hearing decision and will result in a new eligibility notice (See Exhibit 5).

## Order for MassHealth

Continue MassHealth Standard coverage for all household members pending the issuance of a new qualifying event letter, and issue new appealable notice informing Appellant of the requirement to enroll in ESI within 60 days.

## 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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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171