Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	DENIED	**Appeal Number:**	2414340
Decision Date:	10/22/2024	**Hearing Date:**	10/15/2024
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Brittany Holliday, Tewksbury 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:	DENIED	**Issue:**	Community Eligibility – under 65; Coverage start date
Decision Date:	10/22/2024	**Hearing Date:**	10/15/2024
MassHealth's Rep.:	Brittany Holliday	**Appellant's Rep.:**	Pro se
Hearing Location:	Remote	**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 September 5, 2024, MassHealth approved the appellant's application for MassHealth benefits starting on August 26, 2024. See 130 CMR 502.006; 130 CMR 519.010; and Exhibit 1. The appellant filed this appeal in a timely manner on September 18, 2024. See 130 CMR 610.015(B) and Exhibit 2. MassHealth's determination of a coverage date is valid grounds for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth approved the appellant's application for MassHealth benefits starting on August 26, 2024.

Issue

Whether MassHealth was correct in determining the appellant's coverage start date in pursuant to 130 CMR 502.006(A) and 130 CMR 519.010(C).

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Tewksbury MassHealth Enrollment Center. The appellant appeared pro se and verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is under the age of 65 and has been determined disabled. The appellant has had MassHealth Standard and Medicare Savings Plan (MSP) coverage since 2023. On November 24, 2023, MassHealth mailed out a renewal application to the appellant for completion and submission to MassHealth. The appellant did not submit his renewal application. Through a notice dated January 19, 2024, the appellant was informed that his MassHealth coverage will be terminated effective on February 2, 2024. On September 5, 2024, the appellant called MassHealth and completed his renewal application telephonically. Through a notice on September 5, 2024, MassHealth approved the appellant for MassHealth Standard and MSP with the effective date of August 26, 2024, ten days before the application date.

The appellant verified his mailing address but testified that he neither received the renewal application nor the termination notice dated January 19, 2024. He said that he noticed Medicare premiums being deducted from his Social Security check starting in February 2024; however, he did not contact MassHealth to inquire about the matter. He added that he tried contacting MassHealth later but that he was unable to reach anyone due to long wait times. He argued that since his MassHealth benefits were terminated in February 2024, he should be reimbursed for his Medicare premiums retroactively to February 2024.

The MassHealth representative verified that both the renewal application and the termination notice were mailed to the appellant's correct address.

Findings of Fact

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

1. The appellant is under the age of 65 and has been determined disabled. (Testimony).

2. The appellant has had MassHealth Standard and MSP coverage since 2023. (Testimony and Exhibit 4).

3. On November 24, 2023, MassHealth mailed out a renewal application to be submitted to MassHealth. (Testimony).

4. The appellant did not submit his renewal application by the deadline, and his coverage was terminated on February 2, 2024. (Testimony).

5. On September 5, 2024, the appellant completed his renewal application telephonically. (Testimony).

6. Through a notice on September 5, 2024, MassHealth approved the appellant for MassHealth Standard and MSP with the effective date of August 26, 2024, ten days before the application date. (Testimony, Exhibit 1).

7. The appellant filed this appeal in a timely manner on September 18, 2024. (Exhibit 2).

Analysis and Conclusions of Law

MassHealth regulation at 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F). See 130 CMR 505.002(A)(1).

A disabled adult 21 through 64 years old is eligible for MassHealth Standard coverage if they meet the following requirements:

> (a) the individual is permanently and totally disabled as defined in 130 CMR 501.001: Definition of Terms;
> (b) the modified adjusted gross income of the MassHealth Disabled Adult household as described in 130 CMR 506.002(C): MassHealth Disabled Adult Household is less than or equal to 133% of the federal poverty level (FPL), or the individual is eligible under section 1634 of the Social Security Act (42 U.S.C. § 1383c) as a disabled adult child or as a disabled widow or widower, or is eligible under the provisions of the Pickle Amendment as described at 130 CMR 519.003: Pickle Amendment Cases;
> (c) the individual is a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and
> (d) the individual complies with 130 CMR 505.002(M).
>
> (2) Determination of Disability. Disability is established by
> (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
> (b) a determination of disability by the SSA; or
> (c) a determination of disability by the Disability Evaluation Services (DES).
>
> (3) Extended MassHealth Eligibility. Disabled persons whose SSI disability assistance

> has been terminated and who are determined to be potentially eligible for MassHealth continue to receive MassHealth Standard until the MassHealth agency makes a determination of ineligibility.

See 130 CMR 505.002(E).

Additionally, applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007 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. See 130 CMR 505.002(M).

The MassHealth agency, in accordance with the Medicare Savings Program (MSP) as described at 130 CMR 519.010, pays the following for members who meet the requirements of 130 CMR 505.002(C) and (E):

> (a) the cost of the monthly Medicare Part B premiums;
> (b) where applicable, the cost of hospital insurance under Medicare Part A for members who are entitled to Medicare Part A; and
> (c) where applicable, for the deductibles and coinsurance under Medicare Parts A and B.

See 130 CMR 505.002(O).

Here, the appellant's eligibility for MassHealth Standard plus MSP is not in dispute. MassHealth approved the appellant for MassHealth Standard coverage plus MSP starting on August 26, 2024. However, the appellant is seeking the retroactive coverage start date of February 2, 2024. He is also seeking reimbursement for the Medicare premiums deducted from his Social Security check starting in February 2024.

In order to determine eligibility, applicants have certain responsibilities as set forth in 130 CMR 501.010.

> ….(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining available health insurance. The MassHealth agency may request corroborative information necessary to maintain eligibility, including obtaining or maintaining available health insurance. The applicant or member must supply such information within 30 days of the receipt of the agency's request. If the member does not cooperate, MassHealth benefits may be terminated.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, the availability of health insurance, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth may be terminated.

As part of the enrollment and renewal process, MassHealth sets forth the following requirements for individuals who have already been enrolled in MassHealth:

502.007: Continuing Eligibility

(A) Annual Renewals. The MassHealth agency reviews eligibility once every 12 months. Eligibility may also be reviewed as a result of a member's change in circumstances, or a change in MassHealth eligibility rules, or as a result of a member's failure to provide verification within requested time frames. The MassHealth agency updates eligibility based on information received as a result of such review. The MassHealth agency reviews eligibility

(1) by information matching with other agencies, health insurance carriers, and information sources;

(2) through a written update of the member's circumstances on a prescribed form;

(3) through an update of the member's circumstances in person, by telephone, or on the MAHealthConnector.org account; or

(4) based on information in the member's case file.

(B) Eligibility Determinations. The MassHealth agency determines, as a result of this review, if

(1) the member continues to be eligible for the current coverage type;

(2) the member's current circumstances require a change in coverage type, premium payment, or premium assistance payment; or

(3) the member is no longer eligible for MassHealth.

See 130 CMR 502.007.

In this case, both the appellant and MassHealth agree that the appellant completed his renewal application on September 5, 2024. MassHealth approved the appellant for MassHealth

Standard plus MSP starting on August 26, 2024. The question then becomes whether MassHealth correctly determined the start date for the appellant's coverage.

The start date of MassHealth benefits is determined by 130 CMR 502.006(A)(2)(b):

> (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).

Here, since the appellant is over the age of nineteen, his coverage date begins ten days prior to the date of his application. See generally 130 CMR 502.006(A)(2). The appellant argued that his coverage start date should date back to February 2024. In support of his argument, he stated that he neither received the renewal application nor the termination notice dated January 19, 2024. Thus, he was unaware that his coverage had ended. As such, he is entitled to retroactive coverage. This argument fails for number of reasons. One, the appellant verified his mailing address and the MassHealth representative confirmed that both the renewal application and the termination

notice were mailed out to the correct address. Two, the appellant testified that he noticed the Medicare premiums being deducted from his Social Security check starting in February 2024. He admitted that he did not initially contact MassHealth to inquire but later explained that, due to lengthy wait times, he was unable to reach them. Regardless, the appellant agrees that he did not submit his renewal application until September 5, 2024. Lastly, even if the appellant was unaware of the lapse in his MassHealth coverage, he did not offer any authority to support his argument that since he was unaware of the lapse in his coverage, his coverage should be reinstated retroactively.

The appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." See Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231 (2006); see also Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983)(proof by a preponderance of the evidence is the standard generally applicable to administrative proceedings). The appellant was unable to carry his burden.

Additionally, the appellant requested retroactive reimbursement for the Medicare premiums deducted from his Social Security checks starting in February 2024. The regulation relevant to Medicare premium payment for MassHealth Standard coverage states that the coverage start date will be in accordance with 130 CMR 519.010 for MSP-QMB. See 130 CMR 505.002(O)(2).

The MSP-QMB coverage is available to Medicare beneficiaries who (1) are entitled to hospital benefits under Medicare Part A; (2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% of the federal poverty level; (3) Effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website. Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and (4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000 : Health Care Reform: MassHealth: Universal Eligibility Requirements or 130 CMR 517.000 : MassHealth: Universal Eligibility Requirements, as applicable.

There is no dispute that the appellant is entitled to MSP-QMB coverage. However, the start date of this coverage is set forth in 130 CMR 519.010(C)[1] as "the first day of the calendar month following

[1] It should be noted that the retroactive MSP coverage applicable to Specified Low Income Medicare Beneficiaries (SLMB) and Qualifying Individuals (QI), are not applicable to the appellant. In appellant's case, MSP-QMB coverage is governed under 130 CMR 519.010, whereas MSP-SLMB and MSP-QI benefits are separately governed under 130 CMR 519.011. Moreover, both MSP-SLMB and MSP-QI coverage types are limited to individuals with income **exceeding** 190% of the FPL. The appellant's income is 93.96% of the FPL. See 130 CMR 519.011(A)(1)(b); 130 CMR 519.011(B)(1)(b); and Exhibit 1.

the date of the MassHealth eligibility determination." The appellant submitted his renewal application on September 5, 2024. His application was approved on the same day. Because MassHealth approved the application on September 5, 2024, the appellant's start date of his MSP-QMB coverage will be "the first day of the calendar month following the date of the MassHealth eligibility determination." Id.

For the foregoing reasons, this 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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290