

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2414735
Decision Date:	12/20/2024	Hearing Date:	10/28/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	11/22/2024

Appearance for Appellant:



Appearance for MassHealth:

Jennifer Canizares



*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	<b>Issue:</b>	Eligibility Start Date
<b>Decision Date:</b>	12/20/2024	<b>Hearing Date:</b>	10/28/2024
<b>MassHealth's Rep.:</b>	Jennifer Canizares	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 9, 2024, MassHealth notified the appellant that he is eligible for "MassHealth Senior Buy-In" [herein referred to under the current program name, the Medicare Savings Program for Qualified Medicare Beneficiaries (MSP-QMB)]<sup>1</sup> as of September 1, 2024. (130 CMR 519.000; Exhibit 1). The appellant filed an appeal in a timely manner on September 25, 2024. (130 CMR 610.015; Exhibit 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

During the course of the appeal, the record was held open to provide the parties with the opportunity to present additional evidence. The record closed on November 22, 2024. (Exhibit 6).

### Action Taken by MassHealth

MassHealth determined that the appellant is eligible for the Medicare Savings Program for Qualified Medicare Beneficiaries as of September 1, 2024. (130 CMR 519.000).

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<sup>1</sup> MassHealth amended their regulations in November 2023 and issued eligibility memoranda regarding the MSP-QMB and they all reflect this new program name as well as changes in eligibility and coverage. While the notice on appeal reflects the regulatory changes, it does not list the correct program name. The new program name should be on the notices issued to members so they have the correct program information if they need to contact the agency with questions or look up information about the program on their own.

## **Issue**

Whether MassHealth was correct in determining that the appellant is eligible for the Medicare Savings Program for Qualified Medicare Beneficiaries as of September 1, 2024.

## **Summary of Evidence**

The appellant is 65 years of age or older. In March 2024, MassHealth sent the appellant a notice along with an eligibility review for “Seniors and Certain People Needing Long-Term Services” form. (Testimony; Exhibit 6). The notice informs the appellant to return the form on or before April 15, 2024 or he may lose coverage. (Testimony; Exhibit 6). On April 24, 2024, MassHealth issued a request for information noting that they received the review form but needed more information before they could make a final eligibility decision. (Testimony; Exhibit 6). The appellant was required to provide the information on or before July 23, 2024. (Testimony; Exhibit 6).

On June 11, 2024, MassHealth notified the appellant that he was not eligible for MassHealth Standard as he has more countable assets than MassHealth benefits allow. (Testimony; Exhibit 6). MassHealth determined that the appellant had countable assets totaling \$176,212.87. (Testimony; Exhibit 6). On August 9, 2024, MassHealth issued a notice stating that the appellant was eligible for the MSP-QMB as of September 1, 2024. (Testimony; Exhibit 1; Exhibit 6). At hearing, the MassHealth representative testified that the appellant became eligible for the Medicare Savings Program for Qualified Medicare Beneficiaries (MSP-QMB) on July 1, 2024.

The MassHealth representative testified that the appellant’s MassHealth Standard coverage ended in [REDACTED] and eligibility for the MSP-QMB began in July 2024 as that program does not have retroactive eligibility and the eligibility decision for that coverage-type was made in June 2024. At hearing, the MassHealth representative could not produce a notice regarding a termination of MassHealth Standard coverage or start date of July 1, 2024 for MSP-QMB. The MassHealth representative testified that when an individual eligible for MassHealth Standard turns 65, the system terminates coverage two weeks from that date. The MassHealth representative noted that there will always be a gap in coverage for individuals transitioning from MassHealth Standard to the MSP-QMB program due to the regulatory start date for MSP-QMB.

The appellant testified that he did not recall getting a notice regarding a termination of coverage. The appellant testified that he did not challenge the coverage type, only the start date. The appellant testified that he was seeking eligibility for MSP-QMB as of June 2024 as he had to pay Medicare premiums that month.

The record was held open to provide MassHealth with the opportunity to present copies of notices issued to the appellant from the beginning of the renewal process as it was not clear when or if the agency issued a termination notice or eligibility start date for MSP-QMB of July 1, 2024. (Exhibit 6). The notice on appeal states that the appellant is eligible for MSP-QMB as of September 1, 2024.

The MassHealth representative presented copies of notices regarding the need to complete an eligibility review for individuals over the age of 65 and provide additional information. (Exhibit 6). In the submission, the MassHealth representative states “interestingly enough there is no [termination] notice that was generated in HIX<sup>2</sup> that we could find”. (Exhibit 6). The MassHealth representative stated that although the appellant did not receive notice of a termination in coverage, when the appellant turned 65, he could not continue his MassHealth Standard benefits until the decision on appeal. (Exhibit 6). The MassHealth representative stated that a change in the coverage type caused the gap in coverage. The MassHealth representative noted that the decision of approval for MSP-QMB was “done” in June 2024 so the benefits start in July 2024. (Exhibit 6).

The appellant responded that he made three attempts to provide MassHealth with information in May 2024 and acknowledged that he did not provide all of the necessary information noting that the agency did not tell him “exactly” what information they needed. (Exhibit 7). In his message, the appellant speaks to a June 1, 2024 deadline for the submission of information. (Exhibit 7). The request for information sent in April 2024 has a deadline of July 23, 2024. (Exhibit 6).

## **Findings of Fact**

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

1. The appellant is 65 years of age or older.
2. In March 2024, MassHealth sent the appellant a notice along with an eligibility review for “Seniors and Certain People Needing Long-Term Services” form.
3. The “Seniors and Certain People Needing Long-Term Services form was due on April 15, 2024.
4. On April 24, 2024, MassHealth issued a request for information noting that they received the review form but needed more information before they could make a final eligibility decision.
5. The agency required the appellant to provide the information on or before July 23, 2024.
6. On June 11, 2024, MassHealth notified the appellant that he was not eligible for MassHealth Standard as he has more countable assets than MassHealth benefits allow.
7. MassHealth determined that the appellant had countable assets totaling \$176,212.87.
8. On August 9, 2024, MassHealth issued a notice stating that the appellant was eligible for

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<sup>2</sup> HIX [the Health Insurance Exchange] is one of the agency’s the eligibility processing systems.

MSP-QMB as of September 1, 2024.

9. The agency's system notes an eligibility start date for MSP-QMB as July 1, 2024.
10. The agency did not issue a notice terminating the appellant's MassHealth Standard coverage.

## **Analysis and Conclusions of Law**

The regulations governing MassHealth require the agency to send a written timely notice to the member before the appealable action. (130 CMR 610.015(A)). A timely notice is a notice mailed at least ten days before the action. (130 CMR 610.015(A)). Such notice must include a statement of the right of appeal and the time limit for appealing. (130 CMR 610.015(A)).

A notice concerning an intended appealable action must be timely as stated in 130 CMR 610.015 and adequate in that it must be in writing and contain

- (1) a statement of the intended action;
- (2) the reasons for the intended action;
- (3) a citation to the regulations supporting such action;
- (4) an explanation of the right to request a fair hearing; and
- (5) the circumstances under which assistance is continued if a hearing is requested. (130 CMR 610.026(A)).

The date of request for a fair hearing is the date on which BOH receives such a request in writing. (130 CMR 610.015(B)). The Board of Hearings must receive the request for a fair hearing within 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. (130 CMR 610.015(B)). Such notice must include a statement of the right of appeal and the time limit for appealing. (130 CMR 610.015(B)). The Board of Hearings can accept a request for hearing 120 days from the date of an agency action when the agency fails to send written notice of the action. (130 CMR 610.015(B)(2)(c)). In this case, the agency terminated coverage in May 2024 and failed to send the appellant notice of that termination. Therefore, this decision will address action taken in May 2024 regarding the termination in coverage as the appellant filed an appeal in September 2024.

MassHealth benefits terminate or downgrade no sooner than 14 days from the date of termination or downgrade notice unless the member timely files an appeal and requests continued MassHealth benefits pending such appeal or reinstatement of benefits. (130 CMR 502.006(C); 130 CMR 502.006(D)). In this case, we are looking at the downgrade of MassHealth coverage from Standard to MSP-QMB. MassHealth coverage start dates are subject to limitations including the start date for Medicare premium payments for individuals determined eligible for MassHealth Standard, MassHealth CommonHealth and MassHealth Medicare Savings Programs. (130 CMR 502.006(C); 130 CMR 519.010). The appellant's MassHealth Standard coverage ended

in May 2024 with no notice to the appellant. The June 2024 notice regarding a denial due to excess assets does not make any reference to a date of coverage termination. The notice appears to be one for a new applicant, not a current member who has a change in coverage or termination date. Additionally, the representative from the agency noted that the appellant became eligible for MassHealth MSP-QMB as of July 1, 2024 but neither party provided a copy of a notice regarding a change in coverage at that time.

Pursuant to 130 CMR 515.010(C), the begin date for MSP coverage is the first day of the calendar month following the date of the MassHealth eligibility determination. While the MassHealth representative stated that a determination regarding the appellant's eligibility for MSP-QMB and termination of MassHealth Standard was in June 2024, the appellant was not provided notice of either determination. (130 CMR 502.006(C); 130 CMR 502.006(D)). While it may have been appropriate for the agency to begin MSP coverage the first day of the calendar month following the date of the eligibility determination, the agency failed to take proper action in terminating and downgrading the appellant's coverage. The agency cannot simply state at hearing that a member's coverage terminates 2 weeks after they turn 65. A member is entitled to notice of that agency action at the time of the decision. In this case, the agency failed to take that action. Therefore, this appeal is approved.

## **Order for MassHealth**

Rescind the notice on appeal and determine the appellant eligible for MSP-QMB as of June 1, 2024.

## **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

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