Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Approved	**Appeal Number:**	2416825
Decision Date:	3/12/2025	**Hearing Date:**	02/26/2025
Hearing Officer:	Emily Sabo		

Appearance for Appellant:

[redacted]

Appearances for MassHealth:

Jacob Sommer, Charlestown MEC; Karishma Raja, Premium Billing

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:	Approved	**Issue:**	Community Eligibility—Under 65; Premium Billing
Decision Date:	3/12/2025	**Hearing Date:**	02/26/2025
MassHealth's Reps.:	Jacob Sommer; Karishma Raja	**Appellant's Rep.:**	[redacted]
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	**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 October 9, 2024, MassHealth notified the Appellant that he was approved for MassHealth CommonHealth, starting on September 13, 2024. Exhibit 1. The Appellant's representative filed this appeal on November 1, 2024, stating that the Appellant's coverage was terminated for nonpayment of premiums and there was a gap in coverage. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

On July 31, 2024, MassHealth notified the Appellant that his coverage was terminating on August 14, 2024 due to unpaid premiums. The notice states that "If, before the coverage ending date, person pays all past due amounts, sets up a payment plan with MassHealth requests a hardship waiver, or meets other requirements in 130 CMR 506.011(D), he or she may continue to get MassHealth." Exhibit 5.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 610.026, when it did not provide the Appellant's authorized representative with notice that it was terminating the Appellant's benefit.

Summary of Evidence

The hearing was held by telephone. MassHealth was represented by an eligibility specialist, who was filling in for a colleague, and a premium billing specialist. The MassHealth eligibility specialist testified that the Appellant was enrolled in MassHealth Standard during the Covid-19 pandemic, and that when the public health emergency ended, MassHealth determined that the Appellant's income was too high to qualify for MassHealth Standard. The eligibility specialist testified that the Appellant has a verified disability, and was deemed eligible for MassHealth CommonHealth as of August 11, 2023, with a monthly premium. The eligibility specialist testified that the Appellant's coverage was terminated on August 14, 2024, for unpaid premiums. The premium billing specialist testified that the Appellant's past due premiums were paid on September 20, 2024, and the Appellant's CommonHealth benefit was reinstated as of September 13, 2024. The premium billing specialist testified that the Appellant paid his October-December 2024 premiums, but has not yet paid his January and February 2025 premiums, which are $52/month. The premium billing specialist clarified that the Appellant's February 2025 premium was not due until after the hearing.

The Appellant was represented by his sister and authorized representative, who verified the Appellant's identity. The Appellant's sister testified that as soon as she discovered that the Appellant's MassHealth benefit had been terminated she paid his overdue premiums. The Appellant's sister testified that the Appellant previously handled his own affairs, but that now she is responsible for him. The Appellant's sister testified that she did not receive the July 31, 2024 termination notice about the Appellant's benefit ending for unpaid premiums, even though she is his authorized representative with MassHealth.

The MassHealth eligibility specialist stated that the Appellant's sister was listed as the Appellant's authorized representative as of October 15, 2024. During the discussion at the hearing, the MassHealth eligibility specialist reviewed the matter further, and learned that the Appellant's sister was listed as the Appellant's authorized representative as of February 10, 2020 in another MassHealth computer system. The eligibility specialist also noted that the Appellant's sister had signed his most recent renewal application as the Appellant's authorized representative, and that MassHealth erred in not carrying over the authorized representative designation from one system to another. The eligibility specialist testified that MassHealth did not send the authorized representative the earlier notices including the July 31, 2024 termination notice. The eligibility specialist spoke with his supervisor and stated that he was not able to resolve the issue.
The Appellant's sister testified that if she had received notice of the Appellant's outstanding

premiums, and/or notice of termination, she would have ensured that the premiums were paid, such that the Appellant's CommonHealth benefit did not end.

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 a verified disability. Exhibit 4.

2. The Appellant's sister has been his authorized representative since February 10, 2020, and signed the Appellant's most recent renewal application. Testimony.

3. On July 31, 2024, MassHealth sent the Appellant notice that his coverage was terminating on August 14, 2024 due to unpaid premiums. The notice states that "If, before the coverage ending date, person pays all past due amounts, sets up a payment plan with MassHealth requests a hardship waiver, or meets other requirements in 130 CMR 506.011(D), he or she may continue to get MassHealth." Testimony, Exhibit 5.

4. MassHealth did not send the July 31, 2024 termination notice to the Appellant's authorized representative, but only to the Appellant. Testimony.

5. The Appellant's authorized representative paid the Appellant's past due CommonHealth premiums and his coverage was reinstated, effective September 13, 2024. Testimony, Exhibits 1, 5.

6. The Appellant filed an appeal regarding the lapse in coverage with the Board of Hearings on November 1, 2024.

Analysis and Conclusions of Law

MassHealth regulations provide:

610.015: Time Limits

(A) Timely Notice. Before an intended appealable action, the MassHealth agency must send a written timely notice to the member except as provided in 130 CMR 610.027. A timely notice is a notice mailed at least ten days before the action. Such notice must include a statement of the right of appeal and the time limit for appealing.

(B) Time Limitation on the Right of Appeal. 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;

(2) unless waived by the BOH Director or his or her designee, 120 days from

(a) the date of application when the MassHealth agency fails to act on an application;

(b) the date of request for service when the MassHealth agency fails to act on such request;

(c) the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action; or

(d) the date of the alleged coercive or otherwise improper conduct, but up to one year from the date of the conduct if the appellant files an affidavit with the BOH Director stating the following, and can establish the same at a hearing (Failure to substantiate the allegation either before or at the hearing will be grounds for dismissal.):

1. he or she did not know of the right to appeal, and reasonably believed that the problem was being resolved administratively or he or she was justifiably unaware of the conduct in question; and

2. the appeal was made in good faith.

(3) 30 days after a resident receives written notice of an intent to discharge or transfer pursuant to 130 CMR 610.029(A);

(4) 30 days after a nursing facility initiates a transfer or discharge or fails to readmit and fails to give the resident notice;

(5) 14 days after a resident receives written notice of an emergency discharge or emergency transfer pursuant to 130 CMR 610.029(B);

(6) 14 days after a resident receives written notice of a transfer or discharge that is the result of a nursing facility's failure to readmit the resident following hospitalization or other medical leave of absence;

(7) for appeals of a decision reached by a managed care contractor:

(a) 120 days after the member's receipt of the managed care contractor's final internal appeal decision where the managed care contractor has reached a decision wholly or partially adverse to the member, provided however that if the managed care contractor did not resolve the member's appeal within the time frames described by 130 CMR 508.010(A), 120 days after the date on which the time frame for resolving that appeal has expired;

(b) for timing of request for continuation of benefits pending appeal, see 130 CMR 610.036.

(8) for appeals of PASRR determinations, 30 days after an individual receives written notice of his or her PASRR determination. 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.

(C) Computation of Time.

(1) Computation of any period referred to in 130 CMR 610.000 is on the basis of calendar days except where expressly provided otherwise. Time periods expire on the last day of such periods unless the day falls on a Saturday, Sunday, legal holiday, or other day on which BOH is closed, in which event the last day of the time period is deemed to be the next day on which BOH is open.
(2) In the absence of evidence or testimony to the contrary, it will be presumed that a notice was received by an appellant on the fifth day after the date of the notice, regardless of whether the fifth day after the date of the notice falls on a Saturday, Sunday, legal holiday, or other day on which BOH is closed. If an appellant dies on or prior to the date of presumed receipt, then for the purposes of determining whether an appeal request is timely, the appealable notice is still presumed to have been received no later than the fifth day after the date of the notice.

130 CMR 610.015(A), (B), (C) (emphasis added)

501.001: Definition of Terms

. . . .

Authorized Representative –

(1) a person or an organization identified as the authorized representative of an applicant or member in a completed Authorized Representative Designation Form or another form prescribed by the MassHealth agency that has been signed by the authorized representative and, if applicable, the applicant or member and submitted to the MassHealth agency and in which the authorized representative agrees to comply with applicable rules regarding confidentiality and conflicts of interest in the course of representing the applicant or member; provided that such person or organization must be

(a) a person or organization designated by the applicant or member in writing to act responsibly on their behalf in connection with the eligibility process and other ongoing communications with the MassHealth agency;

(b) a person acting responsibly on behalf of the applicant or member and who is sufficiently aware of such applicant's or member's circumstances to assume responsibility for the accuracy of the statements made on their behalf during the eligibility process and in other communications with the MassHealth agency, such as a family member or friend; provided that the applicant or member in this case cannot provide written designation and does not otherwise have an individual who can act on their behalf such as an existing authorized representative, guardian, conservator, personal representative of the estate, holder of power of attorney, or an invoked health care proxy; or

(c) a person who has, under applicable law, authority to act on behalf of the applicant or member in making decisions related to health care or payment for health care including, but not limited to, a guardian, conservator, personal representative of the

estate of an applicant or member, holder of power of attorney, or an invoked health care proxy.

(2) An authorized representative will have the authority to complete and sign an application on the applicant's behalf, select a health plan on the applicant's or member's behalf, complete and sign a renewal form on the member's behalf, receive copies of the applicant's or member's notices and other communications from the MassHealth agency (which may include protected health care information, personal data, and financial information), and act on behalf of the applicant or member in all other matters with the MassHealth agency or the Connector, including representing the applicant or member at an appeal provided that, with respect to a person serving as an authorized representative pursuant to 130 CMR 501.001: Authorized Representative (1)(c), authority to act on behalf of the applicant or member is determined by the applicable law or underlying legal document.

130 CMR 501.001.

501.009: Rights of Applicants and Members

The policies of the MassHealth agency are administered in accordance with federal and state law. Applicants and members must be informed of their rights and responsibilities with respect to MassHealth.

(A) Right to Nondiscrimination and Equal Treatment. The MassHealth agency complies with applicable federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, religion, creed, sexual orientation, or sex (including gender identity and gender stereotyping). A compliance coordinator is designated to administer grievance procedures for discrimination complaints.

(B) Right to Confidentiality. The confidentiality of information obtained by the MassHealth agency during the MassHealth eligibility process is protected in accordance with federal and state regulations. The use and disclosure of information concerning applicants, members, and legally liable third parties is restricted to purposes directly connected with the administration of MassHealth as governed by state and federal law.

(C) Right to Timely Provision of Benefits. Eligible applicants and members have the right to the timely provision of benefits, as defined in 130 CMR 502.000: Health Care Reform: MassHealth: The Eligibility Process.

(D) Right to Information. Persons who inquire about MassHealth, either orally or through a written request, have the right to receive information about medical benefits, coverage type requirements, and their rights and responsibilities as applicants and members of MassHealth.

(E) Right to Apply. Any person, individually or through an authorized representative, has the right,

and must be afforded the opportunity without delay, to apply for MassHealth.

(F) Right to Be Assisted by Others.

(1) The applicant or member has the right to be accompanied by any individual of their choice and the right to be represented by an appeal representative as defined in 130 CMR 610.004: Definitions during the appeal process.

(2) An application for MassHealth may be filed by an authorized representative as described in the definition of authorized representative in 130 CMR 501.001.

(3) An appeal of a MassHealth decision, including one brought on behalf of a deceased person, may be filed by an appeal representative if such appeal representative meets the requirements in 130 CMR 610.016: Appeal Representative.

(4) The extent of the authorized representative's and appeal representative's authority to act on behalf of the applicant or member is determined by the applicant or member's delegation of authority, applicable law, or underlying legal document.

(G) Right to Inspect the MassHealth Case File. The applicant or member has the right to inspect information in their MassHealth case file and contest the accuracy of the information. The case file may include electronic records used to determine eligibility.

(H) Right to Appeal. The applicant or member has the right to appeal and request a fair hearing as the result of any adverse action or inaction taken by the MassHealth agency. The request will not be granted if the sole issue is a federal or state law requiring an automatic change adversely affecting members.

(I) Right to Interpreter Services. The MassHealth agency provides free aids and services to applicants and members with a disability or limited English proficiency, such as qualified interpreters and written information in other formats or languages, in accordance with the requirements of federal and state law.

130 CMR 501.009.

610.026: Adequate Notice Requirements

(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.

(B) Regardless of the provisions of 130 CMR 610.026(A), when a change in either federal or state

law requires a change in assistance for a class or classes of members, a notice will be considered adequate if it includes a statement of the specific change in law requiring the action to reduce, suspend, or terminate assistance.

130 CMR 610.026.

502.008: Notice

(A) The MassHealth agency provides all applicants and members a written notice of the eligibility determination for MassHealth. The notice contains an eligibility decision for each member who has requested MassHealth, and either provides information so the applicant or member can determine the reason for any adverse decision or directs the applicant or member to such information.

(B) The MassHealth agency also provides members a notice, in accordance with 130 CMR 610.015: Time Limits, of any loss of coverage, or any changes in coverage type, premium, or premium assistance payments.

(C) The notices described in 130 CMR 502.008(A) and (B) provide information about the applicant's and member's right to a fair hearing, with the exception of notices about hospital-determined presumptive eligibility, as described in 130 CMR 502.003(H), and notices about federal or state law requiring an automatic change adversely affecting some or all members, as described in 42 CFR 431.220(b). Information about the appeal process is found at 130 CMR 610.000: MassHealth: Fair Hearing Rules.

130 CMR 502.008.

As an agency, MassHealth is required to comply with the relevant Fair Hearing Rules governing notice found in 130 CMR 610.000. By law, MassHealth must always send timely and adequate notice prior to an adverse action. In the present case, the Appellant's sister has been his authorized representative with MassHealth since February 10, 2020. MassHealth members have the right to be assisted by others, and the regulation defining authorized representative states that an authorized representative has "the authority to . . . receive copies of the applicant's or member's notices and other communications from the MassHealth agency (which may include protected health care information, personal data, and financial information)." 130 CMR 501.001.
Here, it is not disputed that MassHealth did not send the Appellant's authorized representative notice of the Appellant's loss of coverage on July 31, 2024. 130 CMR 502.008(B). Therefore, MassHealth erred, and the appeal is approved.[1] Accordingly, MassHealth is directed to reinstate the Appellant's CommonHealth coverage, as of the termination date of August 14, 2024, and send

[1] The November 1, 2024 appeal is timely because it was filed within 120 days of the failure to send written notice to the authorized representative on July 31, 2024. 130 CMR 610.015(B)(2)(c).

copies of notices to the Appellant's authorized representative.

Order for MassHealth

Reinstate the Appellant's CommonHealth coverage, as of the termination date of August 14, 2024, and send copies of all notices to the Appellant's authorized representative.

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.

Emily Sabo
Hearing Officer
Board of Hearings

[redacted]

cc: MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

cc: Maximus Premium Billing