

When MassHealth Terminations During the Unwinding May Be Invalid Based on the *Timing* Alone



During the one-year redetermination period from April 1, 2023 to March 31, 2024, protections are still in place to make sure that redeterminations are based on current information. A termination or downgrade may be invalid based on the timing alone.

If MassHealth beneficiaries have their benefits terminated or reduced on or after April 1, 2023, the timing is not right unless they-

- 1). previously received a blue envelope with a renewal notice dated April 1, 2023 or later,
- 2). initiated an early renewal on their own after April 1, 2023, or
- 3). successfully applied or were successfully renewed into the same or better coverage in the past 12 months and reported a change in circumstances before their next annual renewal.

Usual Avenues for Handling an Unlawful Termination

- 1). appealing if possible in time for aid pending appeal
- 2). negotiating with the MassHealth Enrollment Center to reinstate benefits
- 3). sending an email to MassHealthHelp@state.ma.us; Terminations that violate the unwinding rules involving older adults and people with disabilities can also be reported to Susan Ciccarello at susan.masshealth@state.ma.us.

Reinstatements for Wrongful Terminations

The remedy for a wrongful termination should be to reinstate benefits back to the date of termination and to give the member a “fresh” opportunity to renew on or after April 1, 2023. MassHealth then makes a new determination.

But beware, in some cases a reinstatement may be short-lived:

- Find out if a post-April 1 renewal notice was already sent, when it's due, and if there's any "protection" effectively extending the due date in light of the wrongful termination.
- MassHealth has been granting protections in connection with wrongful terminations since April 1, usually for 90 days, but sometimes for shorter periods. We have been unable to determine what happens if people do not complete a renewal before Day 91. It is possible the 90-day protection will simply expire reinstating the initial erroneous termination with no advance notice or notice of appeal rights.
- If a client ever loses benefits without an advance notice of termination, they should be able to get benefits reinstated pending appeal. 42 CFR 431.231(c)(1). Please let us know if you see these cases.

State and federal policies to enable advocates to help MassHealth beneficiaries who were prematurely terminated regain their benefits.

State Policies

[Eligibility Operation Memo 23-13 \(April 2023\): MassHealth Policy Updates to Support Return to Normal Business Operations \(April 1, 2023 – March 31, 2024\)](#)

In [EOM 23-13](#) MassHealth sets out the rules it must follow during the one-year period it has to return to normal operations after the end of the federal continuous coverage period in place from March 18, 2020 to March 31, 2023. The MassHealth redetermination or “unwinding” period is April 1, 2023–March 31, 2024.

[Members who had benefits protected before April 1, 2023](#)

- Members who would have lost or had coverage downgraded during the PHE had their coverage protected so that they were not closed or downgraded.
- For these members, we cannot close or downgrade coverage until they complete an annual renewal or review. [*MLRI Note: pursuant to the federal guidance cited below, this refers to an annual renewal or review initiated during the state’s unwinding period on or after April 1, 2023.*]

[Members who did not have benefits protected before April 1, 2023](#)

- Members who did not have their benefit protected before April 1, 2023, and have successfully completed a renewal application in the last 12 months, may have their coverage downgraded or closed based on changes in circumstances before they complete another renewal. [*MLRI Note: pursuant to the federal guidance cited below, this provision does not apply to a change reported in a renewal that was initiated before April 1, 2023 and processed afterward.*]

In [EOM 23-13](#) MassHealth acknowledges that “Federal guidelines determine when we can close or downgrade coverage (or take “adverse action”), and we must follow these guidelines during the redetermination period.” This is important because there is [extensive federal guidance](#) governing the redetermination process.

Federal Policies

This is additional information from the federal guidelines that MassHealth acknowledges it must follow and that provide more context to the meaning of EOM 23-13.

Some CMS Guidance cited below was written prior to the enactment of the CAA of 2022 which changed the end date of continuous coverage from the month in which the Public Health Emergency (PHE) ends to March 31, 2023. However, CMS Guidance since CAA 2022 continues to cite to earlier guidance subject to the change in date. Substitute March 31, 2023 for references to the date the PHE ends in reading this earlier guidance.

Federal guidance for members who had benefits protected before April 1, 2023

[SHO 23-002 \(Jan 27, 2023\)](#)

With the changes made in section 5131 [of the CAA of 2022], states must end the enrollment of ineligible beneficiaries on or after April 1, 2023, *after a full renewal is conducted during the state's unwinding period*, no matter when the COVID-19 PHE ends. (Emphasis supplied)

[SHO 21-002 \(Aug. 13, 2021\)](#)

Under the revised policy, states may not terminate coverage for any individual determined ineligible for Medicaid, but not terminated, during the PHE, including individuals who failed to respond to a request for information, *until the state has completed a redetermination after the PHE ends* (Emphasis supplied).

Federal guidance for members who did not have benefits protected before April 1, 2023

[COVID-19 Public Health Emergency Unwinding Frequently Asked Questions for State Medicaid and CHIP Agencies October 17, 2022](#)

Q5: If the state has been redetermining eligibility based on changes in circumstances during the PHE and an individual is determined ineligible during the PHE before the state has commenced its unwinding period, may the state send advance notice and terminate coverage once the state's unwinding period begins without conducting a redetermination based on a change in circumstances or renewal during the unwinding period?

A: No... During the states' unwinding period, states must complete a full renewal for individuals who were determined ineligible at renewal during the PHE *or who are no longer within their eligibility period when the state processes the redetermination.* (Emphasis supplied)

Q6: If a beneficiary enrolled in Medicaid or CHIP reports a change in circumstances during the PHE or unwinding period, may the state redetermine eligibility based on the change in circumstances or must the state complete a full renewal?

A: The state may be able to redetermine eligibility based on a change in circumstances, but only in limited circumstances. During the unwinding period, states can only redetermine eligibility based on a change in circumstances if, in the previous 12 months ... the state has already either: (1) completed an initial eligibility determination or (2) renewed the individual's eligibility. In these cases, the beneficiary is still within their 12-month eligibility period ... when the state revisits the case during the unwinding period, and the state may act on the change in circumstances...

MLRI MASSACHUSETTS
LAW REFORM
INSTITUTE

For more information about
MassHealth redeterminations,
visit our website: [insert
website link]

Using the power of law to
fulfill the promise of justice