

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                 |                       |            |
|-------------------------|-----------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied in part  | <b>Appeal Number:</b> | 2201969    |
| <b>Decision Date:</b>   | 5/10/2022       | <b>Hearing Date:</b>  | 04/14/2022 |
| <b>Hearing Officer:</b> | Patricia Mullen |                       |            |

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Souza, Taunton 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

|                           |                                            |                          |                      |
|---------------------------|--------------------------------------------|--------------------------|----------------------|
| <b>Appeal Decision:</b>   | Denied in part                             | <b>Issue:</b>            | CommonHealth Premium |
| <b>Decision Date:</b>     | 5/10/2022                                  | <b>Hearing Date:</b>     | 04/14/2022           |
| <b>MassHealth's Rep.:</b> | Kelly Souza,<br>Taunton MEC                | <b>Appellant's Rep.:</b> | Pro se               |
| <b>Hearing Location:</b>  | Taunton<br>MassHealth<br>Enrollment Center |                          |                      |

## 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 March 8, 2022, MassHealth calculated a monthly premium of \$267.40 for the appellant's CommonHealth coverage. (Exhibit 1, 130 CMR 506.011). The appellant filed this appeal in a timely manner on March 16, 2022 disputing the premium amount. (see 130 CMR 610.015(B) and Exhibit 2). Dispute of a CommonHealth premium is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth calculated a monthly premium of \$267.40 for the appellant's CommonHealth coverage.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in determining that the appellant's monthly CommonHealth premium is \$267.40.

## Summary of Evidence

The appellant appeared telephonically. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The MassHealth representative stated that the appellant is over age 65, disabled, and lives in a two person household with his spouse. The MassHealth representative stated that the appellant was previously determined to be eligible for CommonHealth as a working disabled adult. The MassHealth representative noted that MassHealth does not have verification that the appellant is still working at least 10 hours a week because a number of review forms sent to him have not been returned. The MassHealth representative stated that at a previous hearing, the hearing officer told the appellant to return the review form with supporting documentation, but the review form has not been received at MassHealth. The MassHealth representative stated that MassHealth cannot terminate the appellant's coverage for failure to return a review form due to the Covid emergency protections in place.

Based on a printout from MassHealth's Medicaid Management Information Systems (MMIS) screen, the appellant has been on MassHealth CommonHealth since July 17, 2014 and remains open on such coverage. (Exhibit 3). The MassHealth representative testified that, for the notice at issue, MassHealth verified the appellant's spouse's gross monthly earnings of \$5,994.84, the appellant's gross Social Security income of \$2,084.10, and monthly interest income totaling \$271.00, for total countable monthly income of \$8,349.94. Under 2021 Federal Poverty Level standards, the appellant's countable income was 575% of the federal poverty level for a family of two, and under 2022 Federal Poverty Level standards, the appellant's countable income is 547% of the federal poverty level for a family of two. Based on 130 CMR 506.011, the full monthly premium for CommonHealth for a member whose income is 575% of the federal poverty level is \$372.00 a month; the monthly premium for CommonHealth for a member whose income is 547% of the federal poverty level is \$342.00. Because the appellant pays for his Medicare premium, a supplemental premium is assessed pursuant to 130 CMR 506.011. The supplemental premium for a member whose income is 575% of the federal poverty level is \$260.40, and the supplemental premium for a member whose income is 547% of the federal poverty level is \$239.40. (130 CMR 506.011(B)(2)).

The appellant submitted a copy of his 2021 United States tax return, 1040 form. (Exhibit 5). The MassHealth representative pointed out that the 1040 form was not signed by the appellant or his spouse nor was it signed by the tax preparer. (Exhibit 5). The MassHealth representative stated that MassHealth needs a signed copy of the 1040 form and accompanying documentation including the appellant's spouse's W2. The appellant's 2021 1040 form lists the appellant's spouse's annual income of \$74,830.00, interest income of \$312.00, and negative income for the appellant. The appellant included with the submission, a copy of a Schedule C, Profit or Loss From Business, showing gross annual receipts of \$26,750.00, but negative income after deductions. (Exhibit 5, p. 2). The appellant submitted a Schedule E showing negative rental income, after deductions. (Exhibit 5, p. 3). The appellant testified that he is a dentist and kept his office open to do some dentistry work, but after expenses, he had a business loss. (Exhibit 5, p. 2). The MassHealth representative stated that she believed that a member has to have some amount of earned income in order to be eligible for CommonHealth for working disabled adults and would check with her manager regarding this.

The appellant stated that he had a hardship waiver with Premium Billing but was not sure of the effective dates of the waiver. The appellant stated that he paid a premium of \$393.00 in either July or August, 2021, but had no other premiums until the notice dated March 8, 2022. The appellant stated that he has received a bill for the premium of \$267.40. The appellant stated that in light of his reduced income, he believes the premium should be lower. The appellant stated that he should also be eligible for a hardship waiver. The MassHealth representative stated that she could not see a premium hardship waiver in the system and the appellant would have to apply for such waiver.

## **Findings of Fact**

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

1. The appellant is over age 65, disabled, and lives in a two person household with his spouse.
2. The appellant was previously determined to be eligible for CommonHealth as a working disabled adult.
3. MassHealth verified the appellant's spouse's gross monthly earnings of \$5,994.84, the appellant's gross Social Security income of \$2,084.10, and monthly interest income totaling \$271.00, for total countable monthly income of \$8,349.94.
4. A monthly income of \$8,349.94 is 547% of the federal poverty level for a family of two.
5. The appellant pays for his monthly Medicare premium.
6. The appellant submitted a copy of his 2021 US tax form; such form was not signed by the appellant, his spouse, nor his tax preparer.
7. The appellant's 2021 US tax form lists the appellant's spouse's annual income as \$74,830.00, annual interest income of \$312.00, a business loss for the appellant, and rental loss.
8. The appellant is a dentist and kept his office open to do some dentistry work.

## **Analysis and Conclusions of Law**

The MassHealth agency may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150% of the federal poverty level (FPL), as provided in 130 CMR 506.011. The MassHealth agency may charge a monthly premium to members of the Children's Medical Security Plan (CMSP) who have incomes at or above 200% of the FPL. MassHealth and CMSP premiums amounts are calculated based on a member's household modified adjusted gross income (MAGI) and their household size as described in 130 CMR 506.002 and 506.003 and the premium billing family group (PBF) rules as described in 130 CMR 506.011(A). Certain members are exempt from paying

premiums, in accordance with 130 CMR 506.011(J). (130 CMR 506.011).

The premium formulas for MassHealth CommonHealth members whose eligibility is described in 130 CMR 505.004(B): *Disabled Working Adults* through (G): *Disabled Children Younger than 18 Years Old* are as follows.

(a) The premium formula for children with MassHealth MAGI household income between 150 and 300% of the FPL is provided as follows.

| <b>CommonHealth Full Premium Formula<br/>Children between 150% and 300%</b> |                                    |
|-----------------------------------------------------------------------------|------------------------------------|
| <b>% of Federal Poverty Level<br/>(FPL)</b>                                 | <b>Monthly Premium Cost</b>        |
| Above 150% to 200%                                                          | \$12 per child (\$36 PBFG maximum) |
| Above 200% to 250%                                                          | \$20 per child (\$60 PBFG maximum) |
| Above 250% to 300%                                                          | \$28 per child (\$84 PBFG maximum) |

(b) The full premium formula for young adults with household income above 150% of the FPL, adults with household income above 150% of the FPL, and children with household income above 300% of the FPL is provided as follows. The full premium is charged to members who have no health insurance and to members for whom the MassHealth agency is paying a portion of their health-insurance premium.

| <b>CommonHealth Full Premium Formula Young Adults and Adults<br/>above 150% of the FPL and Children above 300% of the FPL</b> |                                                           |                                          |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------|
| <b>Base Premium</b>                                                                                                           | <b>Additional Premium<br/>Cost</b>                        | <b>Range of Monthly<br/>Premium Cost</b> |
| Above 150%<br>FPL—start at<br>\$15                                                                                            | Add \$5 for each<br>additional 10% FPL until<br>200% FPL  | \$15 — \$35                              |
| Above 200%<br>FPL—start at<br>\$40                                                                                            | Add \$8 for each<br>additional 10% FPL until<br>400% FPL  | \$40 — \$192                             |
| Above 400%<br>FPL—start at<br>\$202                                                                                           | Add \$10 for each<br>additional 10% FPL until<br>600% FPL | \$202 — \$392                            |
| Above 600%<br>FPL—start at<br>\$404                                                                                           | Add \$12 for each<br>additional 10% FPL until<br>800% FPL | \$404 — \$632                            |
| Above 800%<br>FPL—start at<br>\$646                                                                                           | Add \$14 for each<br>additional 10% FPL until<br>1000%    | \$646 — \$912                            |
| Above 1000%<br>FPL—start at                                                                                                   | Add \$16 for each<br>additional 10% FPL                   | \$928 + greater                          |

|       |  |  |
|-------|--|--|
| \$928 |  |  |
|-------|--|--|

(c) The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided as follows. A lower supplemental premium is charged to members who have health insurance to which the MassHealth agency does not contribute. Members receiving a premium assistance payment from the MassHealth agency are not eligible for the supplemental premium rate.

| <b>CommonHealth Supplemental Premium Formula</b> |                             |
|--------------------------------------------------|-----------------------------|
| <b>% of Federal Poverty Level (FPL)</b>          | <b>Monthly Premium Cost</b> |
| Above 150% to 200%                               | 60% of full premium         |
| Above 200% to 400%                               | 65% of full premium         |
| Above 400% to 600%                               | 70% of full premium         |
| Above 600% to 800%                               | 75% of full premium         |
| Above 800% to 1000%                              | 80% of full premium         |
| Above 1000%                                      | 85% of full premium         |

(d) CommonHealth members who are eligible to receive a premium assistance payment, as described in 130 CMR 506.012, that is less than the full CommonHealth premium receive their premium assistance payment as an offset to the CommonHealth premium assistance bill and are responsible for the difference.

(130 CMR 506.011(B)(2)).

MassHealth verified total countable gross monthly income for the appellant of \$8,349.94, which, for 2022, is 547% of the federal poverty level for a family of two. The appellant's countable income results in a full monthly CommonHealth premium of \$342.00. The appellant pays for his monthly Medicare premium, and thus is charged a lower supplemental premium which is 70% of his full premium, or \$239.40 a month (342 x .7). It is not clear how MassHealth arrived at the higher premium of \$267.40, but based on 2022 Federal Poverty Levels, the appellant's monthly premium should be \$239.40.

Based on the appellant's 2021 tax return, the countable monthly income would be higher in light of his spouse's annual income of \$74,830.00, which averages out to \$6,235.83 a month. MassHealth has not accepted the appellant's 2021 unsigned tax return and because such income would result in a higher premium, I make no determination with regard to whether it is acceptable verification of income. Further, MassHealth has continued the appellant's CommonHealth despite the lack of any earned income and thus I make no determination with regard to his continuing eligibility for CommonHealth despite the lack of earnings.

The appeal is approved insofar as the appellant's CommonHealth premium is lowered to \$239.40 a

month, but is denied in that the appellant still has a premium. The appellant is advised to apply for a premium hardship if he feels he would qualify for such.

## **Order for MassHealth**

Modify the notice dated March 8, 2022 and redetermine the appellant's monthly CommonHealth premium to be \$239.40.

## **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.

## **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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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center