

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302135
<b>Decision Date:</b>	4/19/2023	<b>Hearing Date:</b>	04/12/2023
<b>Hearing Officer:</b>	Sara E. McGrath		

**Appearances for Appellant:**




**Appearances for MassHealth:**

Nga Tran, Charlestown MEC  
Katie Mullen, Premium Assistance



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Premium Assistance
<b>Decision Date:</b>	4/19/2023	<b>Hearing Date:</b>	04/12/2023
<b>MassHealth Reps.:</b>	Nga Tran Katie Mullen	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (Remote)		

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through a notice dated March 8, 2023, MassHealth notified the appellant's father that it had stopped his Premium Assistance payments (Exhibit 1). The appellant filed a timely appeal on March 16, 2023 (130 CMR 610.015(B); Exhibit 2). Determination of ineligibility for Premium Assistance is a valid basis for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth determined that the appellant's father, who is the policyholder for her private insurance, is no longer eligible to receive MassHealth Premium Assistance payments because the appellant is eligible for Medicare.

## Issue

The appeal issue is whether MassHealth properly determined that the appellant's father is no longer eligible for MassHealth Premium Assistance payments.

## **Summary of Evidence**

A representative from the MassHealth Premium Assistance Unit and a representative from the MassHealth Enrollment Center both appeared by telephone and testified to the following chronology: The appellant, who is a disabled adult, is eligible for MassHealth Standard benefits. Additionally, she is covered by her father's United HealthCare self-employment health insurance policy. The family has received Premium Assistance payments from MassHealth (on and off) since 2002, with MassHealth most recently paying the maximum amount of \$1,314 per month. In February 2023, Premium Assistance received a system notification that the appellant is eligible for Medicare as of May 1, 2023. The agency determined that because the appellant is eligible for Medicare, she is not eligible for Premium Assistance payments. On March 8, 2023, the Premium Assistance Unit notified the appellant's father that the MassHealth has stopped his Premium Assistance payments (Exhibit 1). In April 2023, Premium Assistance made a last Premium Assistance payment to cover the month of May 2023. The Premium Assistance Unit representative explained that MassHealth regulations exclude Medicare beneficiaries from the Premium Assistance program (130 CMR 506.012(C)(5)(a)).

The appellant's mother/guardian appeared at the hearing by telephone. She explained that she consulted an attorney about a year ago to discuss this issue. The attorney explained that Medicare eligibility should not automatically exclude an individual from receiving Premium Assistance payments. Rather, the Premium Assistance Unit calculates the amount of premium assistance by analyzing the cost and other details of the available private health insurance. She explained that the appellant has costly medical treatment planned for the Fall.

## **Findings of Fact**

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

1. The appellant is a disabled adult who is eligible for MassHealth Standard benefits.
2. The appellant is covered by her father's United HealthCare self-employment health insurance policy.
3. The appellant is eligible for Medicare as of May 1, 2023.
4. The appellant's family has received Premium Assistance payments from MassHealth since 2002 to help pay for the appellant's United HealthCare plan. MassHealth has most recently been paying \$1,314 per month.
5. In February 2023, Premium Assistance received a system notification that the appellant is eligible for Medicare as of May 1, 2023.
6. The Premium Assistance Unit determined that because the appellant is eligible for Medicare, she is not eligible for Premium Assistance payments.

7. On March 8, 2023, the Premium Assistance Unit notified the appellant's father that the MassHealth has stopped his Premium Assistance payments.
8. On March 16, 2023, the appellant timely appealed the Premium Assistance notice.

### **Analysis and Conclusions of Law**

Pursuant to 130 CMR 506.012(A)(1), premium assistance payments are available to MassHealth members who, like appellant, are eligible for MassHealth Standard coverage. MassHealth may provide a premium assistance payment to an eligible member when all of the following criteria are met.

- (1) The health-insurance coverage meets the Basic Benefit Level (BBL) as defined in 130 CMR 501.001: *Definition of Terms*. Instruments including but not limited to Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.
- (2) The health-insurance policy holder is either
  - (a) in the PBFG [Premium Billing Family Group] or
  - (b) resides with the individual who is eligible for the premium assistance benefit and is related to the individual by blood, adoption, or marriage.
- (3) At least one person covered by the health-insurance policy is eligible for MassHealth benefits as described in 130 CMR 506.012(A) and the health-insurance policy is a policy that meets the criteria of the MassHealth coverage type for premium assistance benefits as described in 130 CMR 506.012(C).

130 CMR 506.012(B).

It is undisputed that appellant meets the criteria set forth above. At issue is the applicability of 130 CMR 506.012(C)(5), a regulation that identifies certain MassHealth members who are precluded from receiving premium assistance payment despite meeting the requirements of 130 CMR 506.012(B). That regulation provides as follows:

The following MassHealth members are not eligible for premium assistance payments as described in 130 CMR 506.012(C)(5) from MassHealth:

- (a) MassHealth members who have Medicare coverage. However, for those members who meet the eligibility requirements set forth in 130 CMR 505.002(O), Medicare buy-in benefits may be available;
- (b) all nondisabled nonqualified PRUCOL adults, as described in 130 CMR 505.005(D): *Eligibility Requirements for Adults and Young Adults 19 and 20 Years of Age Who Are Nonqualified PRUCOLs with Modified*

*Adjusted Gross Income of the MassHealth MAGI Household at or below 300% of the Federal Poverty Level; and*

*(c) disabled nonqualified PRUCOL adults with MassHealth Disabled Adult household income above 100% of the FPL, as described in 130 CMR 505.005(F): Eligibility Requirements for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal Poverty Level.*

There is no dispute that as of May 1, 2023, the appellant will have Medicare. Under these regulations, she is not eligible for continued Premium Assistance payments towards her private insurance. The appellant's argument about private health insurance and the agency's math calculation notwithstanding, there is no regulatory basis for the appellant to continue to receive Premium Assistance benefits at this time.

This appeal is therefore 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.

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Sara E. McGrath  
Hearing Officer  
Board of Hearings

cc: MassHealth Premium Assistance

Charlestown MEC