

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in Part; Denied in Part	Appeal Number:	2303116
Decision Date:	6/8/2023	Hearing Date:	05/10/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Valerie Price (Quincy 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 in Part; Denied in Part	Issue:	Eligibility & Premium Calculation
Decision Date:	6/8/2023	Hearing Date:	05/10/2023
MassHealth's Reps.:	Valerie Price (MEC) & Karishma Raja (PB)	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by 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 notices dated December 19, 2022 and April 14, 2023, MassHealth notified the appellant that she was eligible for CommonHealth with a premium of \$31.20 starting in January 2023 and her premium changed to \$40.00 starting June 2023. (130 CMR 506.013; Exhibit 1). The appellant filed an appeal on April 14, 2023. (Exhibit 2). On April 20, 2023, the Board of Hearings dismissed the appeal as the appellant did not provide a copy of the notice that prompted the appeal. (130 CMR 610.035). On April 27, 2023, the Board of Hearings received a copy of a notice, deemed the appeal timely and scheduled a hearing for May 10, 2023.

This decision will address issues related to notices from December 19, 2022 and April 14, 2023 as, in response to the Coronavirus Disease 2019 (COVID-19) national emergency, MassHealth implemented new protocols to support public health efforts for both new MassHealth members and existing members that include providing individuals up to 120 days to request a fair hearing for member eligibility-related concerns. (130 CMR 610.015; Eligibility Op. Memo 20-09; Exhibit 2).

A decision regarding the scope and amount of assistance are valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that she was eligible with a premium of \$31.20 starting January 2023 and the premium changed to \$40 starting June 2023.

Issue

Whether MassHealth was correct in calculating the appellant's monthly premium.

Summary of Evidence

All parties to the hearing appeared by telephone. MassHealth representatives from the Premium Billing Unit (PBU) and a MassHealth Enrollment Center (MEC) appeared at hearing. The representative from the PBU provided documents that were incorporated into the hearing record as Exhibit 5. The appellant was deemed eligible for MassHealth CommonHealth in October 2020 with a monthly premium of \$40.00. On December 19, 2022, MassHealth issued a notice stating that the appellant was eligible for CommonHealth with a monthly premium of \$31.20 as of January 2023. In April 2023, MassHealth issued a notice stating that the appellant's premium will change to \$40.00 as of June 2023.

The appellant is a disabled adult and family group of one. The appellant turned [REDACTED] in the time period between the two eligibility decisions on appeal. The appellant is eligible for Medicare and pays a monthly premium. MassHealth serves as a supplemental insurance to the appellant's Medicare coverage. At the time of the December 2022 eligibility decision, MassHealth determined that the appellant's income included: \$250 each week in alimony (\$1,083.25/month), \$1,200 each month from the Social Security Administration and \$50 each week from working (\$216.65/month) for a total monthly income of \$2,500. In addition to using these figures in determining eligibility, MassHealth subtracts five percentage points of the current federal poverty level (FPL) from the applicable household total countable income to determine eligibility. In December 2022, that would be a deduction of \$57 and result in a monthly income of \$2,443 which places the appellant at 216% of the federal poverty level.¹

The monthly premium is based upon a formula utilized by MassHealth in calculating premiums for members who have coverage that requires them to pay a premium as well as primary insurance to which MassHealth does not contribute. For members with income between 200% and 400% of the Federal Poverty Level, MassHealth utilizes a formula that begins with a premium of \$40 and

¹ These figures are based upon testimony presented by the MassHealth representative as well as calculations done by the Hearing Officer to verify the agency's calculations as the representative at hearing stated that she could not fully explain how the agency calculated all of the figures presented at hearing except to say that the system does the calculations and it determined that the appellant's income was at 216% of the federal poverty level. The following calculation was utilized to determine eligibility figures using MassHealth's calculation of \$1,133 as 100% of the FPL: $[(\$2,443 \div 1,133) \times 100 = 216\%]$.

adds \$8 for each additional 10% of the Federal Poverty Level. An individual with income between 210% and 220% of the Federal Poverty Level will begin with a premium of \$48. Members who have health insurance to which MassHealth does not contribute have a lower supplemental premium. Under this formula, members with income between 200% and 400% of the Federal Poverty Level pay 65% of the full premium. A member with a monthly premium starting at \$48 would have a supplemental premium of \$31.20 [$\$48 \times 0.65 = \31.20].

In April 2023, MassHealth received information about a change in circumstances for the appellant. The appellant's income from the Social Security Administration increased to \$1,443 each month. This increase resulted in a total monthly income of \$2,743. Utilizing MassHealth's income standards, deductions (2023 disregard: \$61²) federal poverty level guidelines and premium formula, countable income of \$2,682 [$\$2,743 - \$61 = \$2,682$] places the appellant at 221% of the federal poverty level [$(\$2,682 \div \$1,215^3) \times 100 = 221\%$].

Neither MassHealth representative could effectively speak to the calculation of \$31.20 as a premium in December 2022 or change in the premium amount to \$40 in April 2023 except to state that the change to \$40 as of June 2023 was possibly due to the lifting of eligibility protections put in place during the COVID-19 national emergency and the appellant [REDACTED]. The MEC representative stated that the appellant will need to submit a renewal form to the agency due her [REDACTED] as eligibility rules change when an individual reaches that age.

The MassHealth representative from the Premium Billing Unit noted that from the time of the agency's initial eligibility decision in October 2020 to the time of the appeal, MassHealth has waived the requirements for members to make premium payments due to new protocols developed to support public health efforts during the Coronavirus Disease 2019 (COVID-19) national emergency.

The appellant testified that when she started making payments in October 2020, they were returned to her and eventually she stopped making the payments due to their being returned. The PBU representative testified that the return of these payments was due to the agency waiving the requirements for members to make these payments. The representative from PBU testified that it was likely that the appellant would be required to start making payments in June 2023 but could not clearly speak to the premium amount listed on the notice issued in April 2023.

The appellant testified that she receives Medicare and pays a premium of \$164 each month so felt that she should not be required to pay a premium to MassHealth. The appellant wanted MassHealth to deduct her Medicare premium from the income they considered countable. The appellant testified that she was informed that she did not have to worry about paying a premium to MassHealth so was not clear on the changes presented in the notices on appeal. The appellant

² As the FPL increases each year, so does the 5% disregard.

³ The FPL is adjusted each year to account for Cost of Living Adjustments (COLA). In March 2023 100% of FPL was adjusted from \$1,133 to \$1,215.

testified that she also did not agree with or understand the change in premium amount from \$31.20 to \$40.

The MassHealth representative from the MEC responded that a Medicare Premium is not a deductible expense. The MassHealth representative did note that there were other expenses that could be considered in calculating a member's income but a Medicare premium did not fall under that category.

Findings of Fact

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

1. The appellant is a disabled adult and a family group of one.
2. The appellant is eligible for Medicare and pays a monthly premium.
3. MassHealth serves as a supplemental insurance to the appellant's Medicare coverage.
4. In a December 2022 eligibility decision, MassHealth determined that the appellant's monthly income of \$2,443 included:
 - a. \$250 each week in alimony (\$1083.25 each month);
 - b. \$1,200 each month from the Social Security Administration;
 - c. \$50 each week from working (\$216.65 each month); and
 - d. 5% disregard of \$57.
 $(\$1083 + \$1,200 + \$217) - \$57 = \$2,443$
5. MassHealth determined that this income placed the appellant at 216% of the federal poverty level $[(\$2,443 \div 1,133) \times 100 = 216\%]$.
6. MassHealth determined that the appellant was eligible for CommonHealth with a monthly premium of \$31.20 $[(\$40 + \$8) \times 65\% = \$31.20]$.
7. In April 2023, MassHealth determined that the appellant's income from the Social Security administration increased from \$1,200 to \$1,442.90.
8. This increase in income from the Social Security Administration resulted in a total monthly income of \$2,682 that included:
 - a. \$250 each week in alimony (\$1083.25 each month);
 - b. \$1,443 each month from the Social Security Administration;

- c. \$50 each week from working (\$216.65 each month); and
- d. 5% disregard of \$61.
 $(\$1,083 + \$1,443 + \$217) - \$61 = \$2,682$

- 9. Utilizing MassHealth's income standards, federal poverty level guidelines and premium formula, this monthly income of \$2,682 placed the appellant at approximately 221% of the federal poverty level. $[(\$2,682 \div \$1,215) \times 100 = 221\%]$.
- 10. In April 2023, MassHealth issued a notice stating that the appellant's premium changed to \$40.00 as of June 2023.

Analysis and Conclusions of Law

MassHealth is responsible for the administration and delivery of health-care services to eligible low- and moderate-income individuals, couples, and families under MassHealth. (130 CMR 501.002(A)). MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits for an individual or family who may be eligible. (130 CMR 501.003(A)). MassHealth formulates requirements and determines eligibility for all MassHealth coverage types. (130 CMR 501.004(A)).

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. (130 CMR 505.001). The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001). The financial standards referred to in 130 CMR 505.000 use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: Household Composition. (130 CMR 505.001(B)). Neither party disputed the fact that the appellant is eligible for MassHealth CommonHealth despite her turning 65 during the period between the two notices on appeal. (130 CMR 505.004; 130 CMR 519.012). The appellant did not dispute the reported income amounts presented by MassHealth. The appellant is eligible for and receives Medicare. The appellant pays a monthly premium to Medicare. The appellant asked MassHealth to consider the deduction of her Medicare Premium in calculating her monthly income.

In determining eligibility, MassHealth does allow deductions from countable income when determining a member's Modified Adjusted Gross Income (MAGI). (130 CMR 506.004(D)). The following are allowable deductions from countable income:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses;

- (5) self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse;
- (9) individual retirement account (IRA);
- (10) student loan interest; and
- (11) higher education tuition and fees. (130 CMR 506.004(D)).

The appellant did not provide testimony or evidence of incurring any of these deductible expenses. The expense noted by the appellant of payment of a Medicare premium is not a deductible expense for eligibility purposes.

MassHealth 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. MassHealth Premium 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 appellant is not an exempt member. (130 CMR 506.011(J)).

MassHealth CommonHealth has a full premium formula as well as a supplemental premium formula. (130 CMR 506.011(B)(2)). The full premium is charged to children with household income above 300% of the federal poverty level (FPL) who have no health insurance and members to whom MassHealth is paying a portion of their health-insurance premium. The following table describes the calculation of the full premium:

CommonHealth Full Premium Formula		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150% FPL start at \$15	Add \$5 for each additional 10% FPL	\$15 - \$35
Above 200% FPL start at \$40	Add \$8 for each additional 10% FPL	\$40 - \$192
Above 400% FPL start at \$202	Add \$10 for each additional 10% FPL	\$202 - \$392
Above 600% FPL start at \$404	Add \$12 for each additional 10% FPL	\$404 - \$632
Above 800% FPL start at \$646	Add \$14 for each additional 10% FPL	\$646 - \$912
Above 1,000% FPL start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

A lower supplemental premium is charged to members who have health insurance to which MassHealth does not contribute. (130 CMR 506.011(B)(2)(c)). The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided as follows:

CommonHealth Supplemental Premium Formula	
% of Federal Poverty Level (FPL)	Monthly Premium Cost

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 1,000%	80% of full premium
Above 1,000%	85% of full premium

The appellant is not receiving a premium assistance payment from MassHealth. The appellant has health insurance to which MassHealth does not contribute. Therefore, MassHealth was correct in utilizing a supplemental premium formula in calculating the premium in December 2022 resulting in a premium of \$31.20. Neither party was clear in how the agency calculated a premium of \$31.20 except for the MassHealth representatives noting that there was a formula.

A review of the facts presented at hearing regarding the appellant's income at the time of the December 2022 eligibility decision and the regulations governing the calculation of a premium for those with income above 200% – 400%, the calculation of a premium amount of \$31.20 was correct as the appellant had income at 216% of the federal poverty level and supplemental insurance [$\$40 + 8 = 48$] [$\$48 \times 0.65 = \31.20]. While this calculation is correct, as noted by the representative from the PBU, the appellant is not responsible for the amounts listed in this December 2022 notice due to the COVID-19 protections put in place by the agency.

MassHealth did make an error in calculating a premium of \$40 as of June 2023 as they did not utilize the premium formula correctly. The appellant's income of \$2,682 [$\$2,743 - \$61 = \$2,682$] places the appellant at 221% of the federal poverty level. [$(\$2,682 \div \$1,215) \times 100 = 221\%$]. Using the regulatory calculations, members with income at 221% of the federal poverty level and supplemental insurance would have a premium amount of \$36.40 [$\$40 + \$8 + 8 = \56] [$\$56 \times 65\% = \36.40].

MassHealth must recalculate the premium beginning June 2023 using the supplemental premium formula rather than the full premium formula.

This appeal is approved in part and denied in part.

As noted above, the appellant is not obligated to pay for premiums until June 2023 due to protections put in place during the COVID-19 national emergency. While it appears that the agency issued a new determination after the appellant turned [REDACTED], neither representative could clearly speak to the issuance of that notice and premium calculation despite their appearance to represent the agency and speak to the eligibility decisions on appeal. The MEC representative did note that the appellant may receive documents to redetermine her eligibility due to turning [REDACTED] [REDACTED]. The appellant should respond to any future requests should she want her coverage to continue. Additionally, the appellant should report any changes that may impact her eligibility within 10 days of the date of the change.

Any subsequent notices issued by MassHealth would be the subject of a new appeal.

Order for MassHealth

Adjust the appellant's monthly premiums beginning June 2023 to require the appellant to pay under the supplemental premium formula resulting in premium payments of \$36.40.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

MassHealth Representative: Maximus Premium Billing, Attn: Gretchen Whitworth, 200 Newport Avenue, 2nd Floor, Quincy, MA 02171