

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|-------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2304572 |
| Decision Date: | 8/28/2023 | Hearing Date: | 07/13/2023 |
| Hearing Officer: | Casey Groff | | |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jeffery Pamphile, 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: | Denied | Issue: | Eligibility; Under 65; Income; Premium Billing |
| Decision Date: | 8/28/2023 | Hearing Date: | 07/13/2023 |
| MassHealth's Rep.: | Jeffery Pamphile, Karishma Raja, | Appellant's Rep.: | <i>Pro se</i> |
| Hearing Location: | Board of Hearings (Remote) | 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 May 22, 2023, MassHealth notified Appellant that it would be changing his health benefit from MassHealth Standard to MassHealth CommonHealth due to a “change in their circumstances” and that he would owe a monthly premium of \$40. See Exh. 1. Appellant filed this appeal in a timely manner on June 5, 2023. See Exh. 2 and 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth changed Appellant's benefit from MassHealth Standard to MassHealth CommonHealth and calculated a \$40 monthly premium to maintain his coverage.

Issue

The appeal issues are whether MassHealth was correct in downgrading Appellant's coverage from Standard to CommonHealth, and whether MassHealth correctly calculated Appellant's CommonHealth premium at \$40 per-month.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by phone and testified as follows: Appellant is under the age of 65 and has been deemed disabled by social security. He lives with his wife, placing him in a household size of two (2). Appellant's wife is over the age of 65 and has also been deemed disabled. On May 22, 2023, Appellant submitted an annual MassHealth renewal application. At the time of the renewal, Appellant was receiving MassHealth Standard – a benefit which had been protected under the Covid-19 Public Health Emergency (PHE) “continuous coverage” mandate. The continuous coverage mandate ended in April 2023, prompting MassHealth members to complete renewals for the agency to make eligibility redeterminations.

During the May 22nd renewal, Appellant reported that he and his wife file taxes as married filing jointly. Appellant reported that he receives monthly income of \$2,076 (equating to \$24,912 per-year) and that his wife receives monthly social security income of \$1,411 (equating to \$16,932 per-year). The couple's total combined annual gross income is \$41,800, which places them at 207.19% of the federal poverty level (FPL). To be eligible for MassHealth Standard, the household income must be at or below 133% of the FPL. The income for a household size of two receiving 133% of the FPL is \$2,186 per-month, or \$26,232 per-year. As Appellant's combined household income exceeds this amount, he does not qualify for MassHealth Standard. Because Appellant is deemed “disabled,” however, he was eligible for MassHealth CommonHealth with a monthly premium of \$40. Accordingly, through a letter dated May 22, 2023, MassHealth notified Appellant that his health benefit would change from “MassHealth Standard to MassHealth CommonHealth because of a change in their circumstances” and that he would owe a \$40 premium starting June 2023. See Exh. 1 The notice informed Appellant that his CommonHealth coverage would become effective May 12, 2023; and that he would no longer receive Standard after June 5, 2023. Id. The representative explained that MassHealth determines the premium amount using formulas based on the individual or household gross income.

A representative from MassHealth's Premium Billing unit also appeared at the hearing by telephone and testified that the \$40 monthly premium covers both Appellant and his wife's MassHealth CommonHealth coverage. The representative explained that Premium Billing is responsible for processing and sending out the invoices. According to records, Appellant's first premium invoice was issued in June 2023, and was paid-in-full by Appellant on June 26, 2023. The representative explained that members may apply for a “premium hardship waiver” through an application available online. To qualify, however, the applicant must submit proof to MassHealth verifying that they meet one of the specific hardships described in the application. Absent a hardship determination, there is nothing at this point that premium billing can do to waive the fee.

Appellant appeared at hearing by telephone and testified that he cannot afford to pay the monthly premium. Both he and his wife are disabled and not capable of physically going back to work. After a two-year long process, his wife was finally approved for social security disability, and this is what pushed them over the limit. Appellant questioned how MassHealth

came up with these income standards, arguing that the figures are unreasonable and do not reflect the significant increase in costs and inflation to everything. Appellant explained that their combined income of \$41,000 “does not cut it” to live in Massachusetts and that most of his income is spent on tax bills, house insurance, and necessary living expenses. There is no money left over for payment of a premium.

Findings of Fact

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

1. Appellant is under the age of 65 and has been deemed disabled; he lives with his wife, placing him in a household size of two (2).
2. Appellant’s wife is over the age of 65 and has also been deemed disabled.
3. On May 22, 2023, Appellant submitted an annual MassHealth renewal application.
4. At the time of the renewal, Appellant was receiving MassHealth Standard through the PHE continuous coverage protection.
5. Appellant and his wife file taxes as married filing jointly.
6. Appellant receives monthly income of \$2,076 (equating to \$24,912 per-year) and his wife receives monthly social security income of \$1,411 (equating to \$16,932 per-year), for a total annual household income of \$41,800 and which places Appellant at 207.19% of the FPL.
7. The income for a household size of two receiving 133% of the FPL is \$2,186 per-month, or \$26,232 per-year.
8. Through a letter dated May 22, 2023, MassHealth notified Appellant that his health benefit would change from “MassHealth Standard [ending June 5, 2023] to MassHealth CommonHealth [effective May 12, 2023] because of a change in their circumstances.”
9. The notice informed Appellant that he would owe a CommonHealth premium of \$40 per month starting June 2023 and which would cover both him and his wife.

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly changed Appellant's health benefit from Standard to CommonHealth, and if so, whether MassHealth correctly calculated his premium of \$40 per-month. As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant with the most comprehensive benefit for which they are eligible. See 130 CMR 501.003(A). The MassHealth coverage types are as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,¹ disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) CommonHealth for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) Family Assistance for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) Small Business Employee Premium Assistance for adults or young adults
- (6) Limited for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (7) Senior Buy-in and Buy-in for certain Medicare beneficiaries.

See 130 CMR 505.001(A)

To establish eligibility for MassHealth, applicants must meet both the categorical *and* financial requirements for the coverage type. To be financially eligible for MassHealth Standard, the applicant/member must be at, or below 133% of the federal poverty level (FPL). See 130 CMR 505.002(E)(1)(b). For a household size of two (2), that limit is \$2,186 per-month or \$26,232 per-year. See 2023 MassHealth Income Standards & Federal Poverty Guidelines (MassHealth FPL Guidelines).² It is undisputed that Appellant's combined household income is \$41,800, which places him at 207.19% of the FPL. Because Appellant's income exceeds 133% of the FPL,

¹ "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

² This source is publicly available at: <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

MassHealth correctly notified Appellant that he no longer qualified for MassHealth Standard and that this coverage would end on June 5, 2023.

Next, MassHealth used Appellant’s updated renewal information to determine the next-most comprehensive benefit for which Appellant was eligible. See 130 CMR 501.003(A). MassHealth appropriately determined that Appellant met criteria for enrollment in MassHealth CommonHealth as a disabled adult “who is not eligible for MassHealth Standard.” See 130 CMR 505.001(A)(2). Pursuant to the regulations governing the categorical requirements and financial standards to receive CommonHealth, MassHealth may charge a monthly premium to members enrolled in CommonHealth who have income above 150% of the FPL. See 130 CMR 505.004(I); see also 130 CMR 506.011. These premiums are calculated “based on a member’s household modified adjusted gross income (MAGI), their household size, and the premium billing family group (PBF) rules as described in 130 CMR 506.011(A). Id.

The following chart describes the full premium formula for adults with household income above 150% of the FPL:

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

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

As previously stated, Appellant does not dispute the accuracy of annual household income reported to MassHealth of \$41,800, or that it puts him at 207.19% of the FPL. See 2023 MassHealth FPL Guidelines. Applying the above formula, individuals with an FPL between 200% and 210%, like Appellant, are subject to a \$40 per-month CommonHealth premium. MassHealth therefore did not err in making its May 22, 2023, eligibility determination or premium calculation.

To the extent that Appellant takes issue with the methodologies used by MassHealth in coming to what he describes as “unreasonable” premium fee, these concerns are duly noted. However, this argument pertains to the legality of the applicable regulation and is therefore beyond the scope of the hearing officer’s decision-making authority. MassHealth Fair Hearing regulations state, in pertinent part:

...the hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency. Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

130 CMR 610.082(C)(2) (emphasis added).

As there was no error by MassHealth in applying the aforementioned regulations and formulas in calculating Appellant’s premium amount or determining eligibility, this appeal is DENIED.³

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.

³ Appellant’s challenge to the legality of 130 CMR 506.011, which sets forth MassHealth’s premium calculation methodology, cannot be addressed here and must be subject to judicial review. See 130 CMR 610.082(C)(2). Appellant may exercise his right to judicial review in accordance with 130 CMR 610.092 and as further described in the “Notification of Your Right to Appeal to Court” Section of this Decision.

Casey Groff
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

MassHealth Representative: Maximum Premium Billing