

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2305198
<b>Decision Date:</b>	11/1/2023	<b>Hearing Date:</b>	09/14/2023
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Elizabeth Nickoson (Taunton MEC) *via*  
telephone

Karishma Raja (Premium Billing) *via* telephone



*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	<b>Issue:</b>	Coverage Downgrade
<b>Decision Date:</b>	11/1/2023	<b>Hearing Date:</b>	09/14/2023
<b>MassHealth's Rep.:</b>	Elizabeth Nickoson; Karishma Raja	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<b>Aid Pending:</b>	Yes

### 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 June 12, 2023, MassHealth notified the appellant that it was changing his health benefits from MassHealth Standard to CommonHealth because of a change in his circumstances. (See 130 CMR 502.000 and 610.00 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on June 26, 2023. (See 130 CMR 610.015(B) and Ex. 2). Any MassHealth action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. (See 130 CMR 610.032(A)(3)).

In a letter dated June 26, 2023, the Board of Hearing notified the appellant that it would dismiss his appeal within 10 days unless the appellant signed and returned an enclosed form. (Ex. 4). The Board did not receive the requested documentation within 10 days and dismissed the appeal. (See Ex. 5). On July 31, 2023, the appellant's mother contacted the Board by telephone inquiring about the status of the appeal and stating that she submitted the requested documentation by July 3, 2023. (Ex. 5). The appellant's mother mailed the Board of Hearings the packets she faxed on July 3, with a fax receipt showing she did fax the packet on that date. (Ex. 6). The Board then reinstated the appeal and scheduled the present hearing. (Ex. 7).

### Action Taken by MassHealth

MassHealth downgraded the appellant's MassHealth coverage from Standard to CommonHealth.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002 and 505.004, in determining that the appellant's coverage should be downgraded.

## Summary of Evidence

The MassHealth representative stated that the appellant is an individual over the age of 30 with a household of one. The appellant receives \$225 every two weeks from employment and receives \$1,689 in Social Security disability every month. The appellant's income places him at 174.14% of the Federal Poverty Level (FPL). The appellant is a citizen of the United States. (Ex. 3). The appellant's mother, who was acting as his representative for the fair hearing, stated that the appellant's employer had recently cut his hours and he currently earns \$90 per week. The MassHealth representative stated that she would update the appellant's income information to reflect this.

The MassHealth representative stated that the appellant completed his renewal on June 12, 2023. At that time, it was determined that the appellant was over the income limit for the MassHealth Standard he had been receiving but was eligible for MassHealth CommonHealth because he was both disabled and working. The MassHealth representative stated that the income standard MassHealth uses for eligibility for MassHealth Standard is 133% of the FPL, or \$1,615 per month. For this reason, MassHealth downgraded the appellant's coverage from MassHealth Standard to MassHealth CommonHealth and calculated that he would have to pay a monthly premium of \$15. (Ex. 1). The appellant, however, continues to receive MassHealth Standard because he is receiving aid pending the result of this appeal.

In addition to informing MassHealth about the change to her son's income, the appellant's mother also sought clarification regarding the payment of the Medicare premium as well as whether MassHealth could count the appellant's rent as a deduction. The MassHealth representative explained that because the appellant's was no longer on MassHealth Standard, which paid for the Medicare premium, that premium is now taken directly from the appellant's Social Security payment. The MassHealth representative stated that although the appellant's net income is now lower because Social Security is directly taking his Medicare premium from the appellant's Social Security payment, MassHealth uses gross income to make income determinations. The MassHealth representative stated that MassHealth unfortunately could not deduct the cost of the appellant's rent from his overall income.

The MassHealth representative stated that based on the appellant's newly reported income information, the appellant was still at 166% of the FPL, which continued to place him above the income limit for MassHealth Standard. The Premium Billing Representative stated that because the appellant is on CommonHealth, he will have to pay a monthly premium of \$15, as stated in the notice. The Premium Billing Representative stated that because the appellant is in aid pending,

which means he is continuing to receive MassHealth Standard during the pendency of this appeal, MassHealth has not yet issued a bill for the appellant's CommonHealth premium and for this reason the appellant does not currently owe MassHealth unpaid premiums. (See Ex. 8). The Premium Billing Representative stated that the appellant's premium will actually decrease because the appellant's representative reported that his earned income has decreased but that MassHealth has not yet calculated that premium.

## Findings of Fact

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

1. The appellant is an individual over the age of 30 with a household of one. (Testimony of the MassHealth representative; Ex. 3).
2. The appellant is a citizen of the United States. (Ex. 3).
3. The appellant completed his MassHealth renewal on June 12, 2023. (Testimony of the MassHealth representative).
4. At that time MassHealth determined that the appellant earned \$225 every two weeks and received \$1,689 from Social Security disability. (Testimony of the MassHealth representative).
5. The appellant's income placed him at 174.14% of the FPL. (Testimony of the MassHealth representative).
6. The income standard MassHealth uses for eligibility for MassHealth Standard is 133% of the FPL, or \$1,615 per month. (Testimony of the MassHealth representative).
7. MassHealth uses the appellant's gross income in order to determine eligibility and does not deduct expenses such as rent from that amount. (Testimony of the MassHealth representative).
8. MassHealth issued a determination downgrading the appellant's coverage from Standard to CommonHealth with a monthly premium of \$15. (Ex. 1; Testimony of the MassHealth representative).
9. Because the appellant appealed this determination, will continue to receive MassHealth Standard until the end of this appeal process. (Testimony of the MassHealth representative; Testimony of the Premium Billing Representative).
10. Since the MassHealth determination, the appellant earned income has decreased to \$90 per week. (Testimony of the appellant's representative).

11. Even with the decrease, the appellant's income places him at 166% of the FPL, which is above the income limit for MassHealth Standard. (Testimony of the MassHealth representative).

## Analysis and Conclusions of Law

A disabled adult 21 through 64 years old is eligible for MassHealth Standard coverage if that individual is permanently and totally disabled<sup>1</sup>; the modified adjusted gross income of the MassHealth Disabled Adult household<sup>2</sup> is less than or equal to 133% of the FPL; the individual is a citizen or a qualified noncitizen<sup>3</sup>; and the individual complies with the requirement to use potential health insurance benefits, enrolling in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth. (130 CMR 505.002(E)(1)).

In order to be eligible for CommonHealth, disabled working adults must be 21 through 64 years old; be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review; be permanently and totally disabled (except for engagement in substantial gainful activity); be a citizen or a qualified noncitizen; be ineligible for MassHealth Standard; and comply with 130 CMR 505.004(J). (130 CMR 505.004(B)). In order to be eligible for CommonHealth, disabled working adults must be 21 through 64 years old; be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review; be permanently and totally disabled (except for engagement in substantial gainful activity); be a citizen or a qualified noncitizen; be

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<sup>1</sup> Permanent and total disability is a condition that is defined under Title XVI of the Social Security Act or under applicable state laws. For adults 18 years of age or older, this means that the individual's condition causes them to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death; or has lasted or can be expected to last for a continuous period of not less than 12 months. (See 130 CMR 501.001). An individual 18 years of age or older is determined to be disabled only if their physical or mental impairments are of such severity that the individual is not only unable to do their previous work, but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives, whether a specific job vacancy exists, or whether the individual would be hired if they applied for work. (Id.). "Work that exists in the national economy" means work that exists in significant numbers, either in the region where such an individual lives or in several regions of the country. (Id.).

<sup>2</sup> A MassHealth disabled adult household is one that consists of the individual; the individual's spouse if living with them; the individual's natural, adopted, and stepchildren younger than 19 years old if living with them; and if any individual described in 130 CMR 506.002(C)(1), (2) or (3) is pregnant, the number of expected children. (130 CMR 506.002(C)).

<sup>3</sup> See 130 CMR 504.002 and 504.003(A)(1).

ineligible for MassHealth Standard; and comply with 130 CMR 505.004(J). (130 CMR 505.004(B)).

The record shows that the appellant is not eligible for MassHealth Standard. The income limit for MassHealth Standard is 133% of the FPL. The appellant's income places him at 166% of the FPL. The appellant is over the income limit for MassHealth Standard. The appellant, however, is eligible for MassHealth CommonHealth coverage. The appellant is between the ages of 21 and 64 and is a citizen. The appellant is disabled but he does work. Although not stated at the hearing, it is presumed that he works at least 40 hours per month. MassHealth's decision to downgrade the appellant's coverage was therefore correct.

For the above stated reasons, the appeal is DENIED.<sup>4</sup>

## **Order for MassHealth**

Remove aid pending and recalculate the appellant's monthly premium based on his decreased income.

## **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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

Maximus Premium Billing, Attn: Karishma Raja, 1 Enterprise Drive, Suite 310, Quincy, MA 02169

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<sup>4</sup> That said, CommonHealth covers the same services as Standard. (See 130 CMR 450.105). Unfortunately, however, CommonHealth does not pay for the appellant's Medicare premium, which is now taken from the appellant's Social Security check.