

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305481
Decision Date:	09/11/2023	Hearing Date:	08/02/2023
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sherrienne Paiva – Taunton MEC
Gretchen Whitworth – Prem. 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; CommonHealth Premium
Decision Date:	09/11/2023	Hearing Date:	08/02/2023
MassHealth's Rep.:	Sherrienne Paiva; Gretchen Whitworth	Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	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 20, 2023, MassHealth downgraded the appellant's benefits from MassHealth Standard to CommonHealth based upon the appellant's income. (Exhibit 1; 130 CMR 505.002 – .009; 506.001 – .004.) The appellant filed this appeal in a timely manner on July 3, 2023, and her Standard benefits are being protected pending the outcome of this appeal. (Exhibit 2; 130 CMR 610.015(B), .036.) Reduction in assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth determined that the appellant's income is too high to qualify for MassHealth Standard and approved the appellant for CommonHealth with a monthly premium.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002 and 506.003-506.004, in determining that the appellant's household income was too high to qualify for MassHealth Standard.

Summary of Evidence

The appellant is under the age of 65 and has a household size of one. Her gross annual income includes \$13,520 from alimony and \$25,872 from Social Security Disability benefits. This total annual income equals \$39,392, which is 270% of the federal poverty level of \$14,580 (\$1,215 per month). MassHealth's eligibility representative explained that the appellant had been protected on the MassHealth Standard coverage during the Federal Public Health Emergency for Covid-19. That protection ended in April, and the appellant submitted a renewal application on or around June 20, 2023. MassHealth verified the appellant's income using electronic data match information and found that she is no longer eligible for Standard. The income cut off for that benefit is 133% of the federal poverty level.

MassHealth also reviewed how it arrived at the CommonHealth Premium of \$57.20 per month. The regulations set a monthly premium based upon the member's income. For incomes between 200% and 400% of the federal poverty level, the premium starts at \$40 per month and increases \$8 for ever ten percent above 200%. MassHealth used income of 265% of the federal poverty level; which would result in an additional premium of \$48 above the \$40 starting point. However, because the appellant already has secondary insurance, Medicare, MassHealth applies a supplemental deduction and only charges 65% of the premium.

The appellant is currently protected in the MassHealth Standard coverage during the pendency of this appeal. Because of this, MassHealth has put a hold on her premium, and she is not being charged at this time.

The appellant testified that she already has insufficient income to cover her monthly expenses, and she often needs to borrow money from her children in order to make ends meet. MassHealth's Premium Billing representative describe the process for requesting a hardship waiver, but that waiver process requires proof of a current financial hardship, such as homelessness, a utility shut-off notice, or extraordinary uncovered medical expenses. The appellant acknowledged that she did not currently have any of those, and she was informed she could apply for a hardship waiver after her premiums started if she did.

Following the hearing, MassHealth was asked to verify the start date of the appellant's alimony, as it affects whether the alimony would be countable while the appellant is under 65 years old. MassHealth confirmed that the appellant had indicated that the alimony started prior to 2019, and MassHealth's representative submitted a divorce decree from 2006.

Findings of Fact

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

1. The appellant is a disabled individual under the age of 65. (Testimony by MassHealth representative.)
2. The appellant annually receives \$13,520 gross from alimony and \$25,872 from Social Security Disability benefits, annually. (Testimony by MassHealth's representative and the appellant.)
3. The appellant submitted a renewal application following the end of the Federal Public Health Emergency, and MassHealth redetermined the appellant's eligibility. (Testimony by MassHealth's representative.)
4. Using income information from an electronic data-match, MassHealth downgraded the appellant to CommonHealth benefits with a \$57.20 per month premium. (Testimony by MassHealth's representative; Exhibit 1.)
5. The appellant's alimony is paid pursuant to a divorce agreement entered into prior to 2019. (Exhibit 6.)

Analysis and Conclusions of Law

MassHealth offers a variety of coverage types based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. Financially, members who seek MassHealth Standard or CarePlus benefits must have countable income under 133% of the federal poverty level. (130 CMR 505.002(E), 505.008(A).) However, disabled adults between the ages of 19 and 64 can qualify for the CommonHealth program, regardless of their income, by meeting either a one-time deductible or working for 40 hours a month.¹ (See 130 CMR 505.004(B)-(C), 506.009.)

For individuals under the age of 65, countable unearned income includes "the total amount of taxable income" a member receives "after allowable deductions on the U.S Individual Tax Return," and specifically includes "social security benefits." (130 CMR 506.003(B).) Non-countable income, however, includes:

(H) alimony payments under separation or divorce agreements **finalized after December 31, 2018**, or pre-existing agreements modified after December 31,

¹ MassHealth's representative did not discuss whether the appellant had satisfied the one-time deductible or had a working letter on file to qualify for CommonHealth.

2018. For individuals with alimony agreements finalized on or before December 31, 2018, alimony continues to be included in the income of the recipient for the duration of the agreement unless or until the agreement is modified;

(130 CMR 506.004(H) (emphasis added).)

In calculating a member's eligibility, "[f]ive percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard." (130 CMR 506.007(A)(3).)

Once the appellant turns 65, the income thresholds get lower, her alimony would be countable regardless of when it started, and CommonHealth is only available to disabled individuals working at least 40 hours per month. (See 130 CMR 519.012; 520.009.)

The MassHealth agency may charge a monthly premium to CommonHealth members who have income above 150% of the federal poverty level (130 CMR 506.011.) The CommonHealth premium is calculated based upon deciles above the federal poverty level. Adults with income just over 150% of the federal poverty level must pay \$15 per month. Five dollars is added for each decile above 150% of the federal poverty level, up to 200%, where the premium would be \$40. From there, eight dollars is added for each decile up to 400%. (See 130 CMR 506.011(B)(2)(b).) A supplemental premium formula provides that members with income between 200% and 400% of the federal poverty level will only be charged 65% of the full premium if they are not "receiving a premium assistance payment" (130 CMR 506.011(B)(2)(c).)

The appellant's monthly income is \$3,282.66. The federal poverty level for an individual is \$1,215; five percent of that is \$60.75. Reducing the appellant's countable income by \$60.75, the appellant's income is 265% of the federal poverty level. The appellant is in the sixth decile over 200%, which results in a full CommonHealth premium of \$88 per month. Because the appellant has Medicare and does not receive Buy-in coverage, she is entitled to the supplemental premium formula deduction, and 65% of her full premium is only \$57.20.

As MassHealth made no error in its determination, this appeal is DENIED.

Order for MassHealth

Remove Aid Pending.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21
Spring St., Ste. 4, Taunton, MA 02780
MassHealth Rep: Prem. Billing