

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305844
Decision Date:	8/29/2023	Hearing Date:	08/15/2023
Hearing Officer:	Patricia Mullen		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Liz Nickoson, Taunton MEC



*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
Decision Date:	8/29/2023	Hearing Date:	08/15/2023
MassHealth's Rep.:	Liz Nickoson, Taunton MEC	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center (remote)		

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 July 5, 2023, MassHealth terminated the appellant's MassHealth Standard benefits and approved the appellant for MassHealth CommonHealth. (Exhibit 1). The notice states that the appellant will not get MassHealth Standard after July 19, 2023 because of one or more of the following reasons: the person's benefits were temporarily protected for a specific reason¹, such as a public health emergency, and the protected status has ended; the notice advises the appellant to contact MassHealth at the number listed in the notice if more specific information is needed; or the person did not complete the annual eligibility renewal within the allowed time and MassHealth was not able to renew coverage based on available federal and state data sources. (see 130 CMR 505.002; 505.004 and Exhibit 1). The appellant filed this appeal in a timely manner on July 17, 2023. (see 130 CMR 610.015(B) and Exhibit 2). A change in benefits is valid grounds for appeal. (see 130 CMR 610.032).

¹ Two other examples of specific reasons that MassHealth may have temporarily protected a person's benefits included, the person asked for a fair hearing, or there were questions about how they qualify. (Exhibit 1, p. 2).

Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth Standard benefits and approved the appellant for MassHealth CommonHealth.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002; 505.004 in determining that the appellant is no longer eligible for MassHealth Standard, but is eligible for MassHealth CommonHealth.

Summary of Evidence

The appellant appeared telephonically at the hearing and verified her identity. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center in Taunton. The MassHealth representative stated that the appellant is a disabled person under age 65 and lives in a one person household. The appellant was open MassHealth Standard for disabled persons on October 10, 2019. (Exhibit 4). The appellant remained open on MassHealth Standard during the Covid-19 Public Health Emergency (PHE) period from March, 2020 through March 31, 2023. (Testimony). MassHealth was prohibited from reviewing cases or terminating MassHealth coverage during the PHE period. On March 6, 2023, MassHealth sent the appellant an annual eligibility review, which the appellant completed online on March 18, 2023. (Exhibit 5, pp. 8-12). The MassHealth representative stated that MassHealth determined the appellant was eligible for MassHealth CommonHealth, but the notice was not issued because MassHealth was not permitted to downgrade MassHealth coverage during the PHE period. (Exhibit 4). By notice dated March 21, 2023, MassHealth informed the appellant that she would remain open on MassHealth Standard due to the Covid-19 Public Health Emergency. (Exhibit 5, p. 16). The March 21, 2023 notice explained that during the PHE most members would not lose coverage, even if their circumstances change, because of the Families First Coronavirus Act; the Act states that MassHealth members could keep their coverage during the Covid-19 PHE, even if their financial circumstances change. (Exhibit 5, p. 16).

The PHE ended on March 31, 2023 and the MassHealth representative stated that the appellant was sent a renewal form on May 15, 2023. (Exhibits 6, 7). The MassHealth representative stated that although the appellant did not return the May 15, 2023 renewal form, the information the appellant submitted with the March 18, 2023 review was in the MassHealth system and MassHealth was able to determine eligibility based on that information. The MassHealth representative stated that the appellant verified 2023 gross Social Security income of \$3007.00 a month. (Exhibit 5, p. 13). MassHealth allows an income deduction equal to 5% of the federal poverty level, which is \$60.75 for a family of one, in determining countable income. (Testimony).

Accordingly, the appellant's countable income is \$2,946.25. (Testimony). The MassHealth representative stated that the income limit for MassHealth Standard for disabled persons under age 65 is 133% of the federal poverty level, or \$1,616.00 a month for a family of one. The MassHealth representative stated that the appellant's countable income of \$2,946.25 is 242% of the federal poverty level and thus she is not financially eligible for MassHealth Standard.

The MassHealth representative stated that because the appellant is a disabled person, under age 65, she is eligible for MassHealth CommonHealth. The MassHealth representative stated that, based on the appellant's income, her CommonHealth premium is \$46.80 a month. The MassHealth representative stated that the premium is calculated pursuant to the MassHealth regulations at 130 CMR 506.011 and the appellant has a supplemental premium because she has Medicare coverage. It was noted at the hearing that income at 242% of the federal poverty level results in a full CommonHealth premium of \$72.00 and a supplemental CommonHealth premium of \$46.80. (130 CMR 506.011(B)(2)(b), (c)).

The appellant argued that her MassHealth Standard should not have been terminated for failure to return the renewal application, because she did the renewal application online in March, 2023 and was told she was still eligible for Standard. (Exhibit 2). When asked why she did not return the May 15, 2023 renewal form, the appellant stated that she did not receive the May 15, 2023 renewal form. (Exhibit 7). The MassHealth representative explained that the appellant's MassHealth Standard was not terminated due to failure to return the renewal form, because MassHealth had all the information it needed to process the appellant's case in the system. The MassHealth representative explained that the appellant's MassHealth Standard was terminated because the PHE period ended, and the appellant's verified income exceeds the income limit for MassHealth Standard, which is \$1,616.00 a month for a one person household. The MassHealth representative noted that the appellant is eligible for CommonHealth because she is disabled. The MassHealth representative noted that there is no income limit for CommonHealth, rather a monthly premium is assessed based on income.

The appellant noted that her monthly Social Security of \$3,007.00 is her only income and she only got the standard annual increase. The appellant noted that she started receiving Social Security income in 2019.

Subsequent to the hearing, the appellant submitted a copy of the 2023 MassHealth Income Standards and Federal Poverty Guidelines. (Exhibit 9, p. 2). This is the chart used by MassHealth to determine MassHealth eligibility. (Exhibit 9, p. 2). The appellant included a printout from MassHealth that notes that she qualifies for MassHealth CommonHealth. (Exhibit 9, p. 3). The appellant argued that, according to the percentage on the chart, she should still qualify for MassHealth Standard. (Exhibit 9, p. 1). The submitted chart shows that 133% of the federal poverty level for a family size of one is \$1,616.00 a month. (Exhibit 9, p. 2).

Findings of Fact

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

1. The appellant is a disabled person under age 65 and lives in a one person household.
2. The appellant was open MassHealth Standard for disabled persons on October 10, 2019 and remained open on MassHealth Standard during the Covid-19 PHE period from March, 2020 through March 31, 2023.
3. The Families First Coronavirus Act allowed MassHealth members to keep their coverage during the Covid-19 PHE, even if their financial circumstances changed; as a result of this Act, MassHealth did not review cases or terminate MassHealth coverage during the PHE period.
4. On March 6, 2023, MassHealth sent the appellant an annual eligibility review, which the appellant completed online on March 18, 2023.
5. MassHealth determined the appellant was eligible for MassHealth CommonHealth, but the notice was not issued because MassHealth was not permitted to downgrade MassHealth coverage during the PHE period.
6. By notice dated March 21, 2023, MassHealth informed the appellant that she would remain open on MassHealth Standard due to the Covid-19 Public Health Emergency.
7. The Covid-19 PHE ended on March 31, 2023.
8. MassHealth sent the appellant a renewal on May 15, 2023.
9. Although the appellant did not return the May 15, 2023 renewal form, MassHealth had the information the appellant submitted with the March 18, 2023 review and was able to determine eligibility based on that information.
10. The appellant verified 2023 gross Social Security income of \$3007.00 a month; the appellant has Medicare coverage.
11. 133% of the federal poverty level is \$1,616.00 a month for a family of one.
12. MassHealth calculated a CommonHealth supplemental premium of \$46.80 a month, based on the appellant's income.

Analysis and Conclusions of Law

Disabled Individuals.

(1) Disabled Adults. A disabled adult 21 through 64 years of age or a disabled young adult 19 or 20 years of age who does not meet the requirements described at 130 CMR 505.002(B)(3)(a)1, is eligible for MassHealth Standard coverage if he or she meets the following requirements:

- (a) the individual is permanently and totally disabled as defined in 130 CMR 501.001 Definition of Terms;
- (b) the modified adjusted gross income of the MassHealth Disabled Adult household as described in 130 CMR 506.002(C): MassHealth Disabled Adult Household is less than or equal to 133% of the federal poverty level (FPL), or the individual is eligible under section 1634 of the Social Security Act (42 U.S.C. § 1383c) as a disabled adult child or as a disabled widow or widower, or is eligible under the provisions of the Pickle Amendment as described at 130 CMR 519.003: Pickle Amendment Cases;
- (c) the individual is a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and
- (d) the individual complies with 130 CMR 505.002(M).

(130 CMR 505.002(E)(1)).

Calculation of Financial Eligibility

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type.

- (1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.
- (2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.
 - (a) A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(K).
 - (b) Countable income includes earned income described in 130 CMR 506.003(A) and

unearned income described in 130 CMR 506.003(B) less deductions described in 130 CMR 506.003(D).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) Five 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)).

MassHealth CommonHealth

(A) Overview.

(1) 130 CMR 505.004 contains the categorical requirements and financial standards for CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.

(2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): MassHealth CommonHealth.

(130 CMR 505.004(A)).

Disabled Adults. Disabled adults must meet the following requirements:

(1) be 21 through 64 years old;

(2) be permanently and totally disabled, as defined in 130 CMR 501.001: Definition of Terms;

(3) be ineligible for MassHealth Standard;

(4) be a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens;

(5) (a) meet a one-time-only deductible in accordance with 130 CMR 506.009: The One-time Deductible; or

(b) have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 200% of the federal poverty level (FPL) and provide verification that they are HIV positive; and

(6) comply with 130 CMR 505.004(J).

(130 CMR 505.004(C)).

Pursuant to MassHealth Eligibility Operations Memo (EOM) 22-17, December, 2022, “[t]he MassHealth system has been updated to allow adult MassHealth members who have disabilities, have income above 133% of the FPL, and are 21–64 years of age to be eligible to receive MassHealth CommonHealth benefits without needing to meet a one-time deductible or be employed at least 40 hours per month. The change is expected to better streamline eligibility for this population and remove additional barriers to qualify for MassHealth benefits. Please note that

members must continue to meet all other requirements for MassHealth CommonHealth under 130 CMR 505.004.” MassHealth EOM 22-17 had the effect of removing the requirements at 130 CMR 505.004(C)(5) for CommonHealth eligibility.

For adults with household income above 150% of the FPL, the CommonHealth premium is calculated as follows.

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

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

The supplemental premium formula for adults is provided as follows. A lower supplemental premium is charged to members who have health insurance to which the MassHealth agency does not contribute. Members receiving a premium assistance payment from the MassHealth agency are not eligible for the supplemental premium rate.

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 1000%	80% of full premium
Above 1000%	85% of full premium

(130 CMR 506.011(B)(2)(c)).

The appellant is a disabled adult under age 65 and receives \$3,007.00 in monthly gross Social Security income. MassHealth subtracts five percentage points of the current federal poverty level 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)). 5% of the federal poverty level for a one person household is \$60.75, and therefore the appellant's countable income is \$2,946.24 (\$3,007 - \$60.25). The income limit for MassHealth Standard for disabled adults under age 65 is 133% of the federal poverty level, or \$1,616.00 a month for a family of one. The appellant's countable monthly income exceeds \$1,616.00 and thus she is not financially eligible for MassHealth Standard.

Because the appellant is a disabled adult under age 65, she is eligible for MassHealth CommonHealth. The monthly premium for MassHealth CommonHealth is calculated pursuant to the charts at 130 CMR 506.011(B)(2)(b) and (c). The appellant's countable monthly income of \$2,946.25 is 242% of the federal poverty level. Pursuant to the chart, the monthly CommonHealth premiums starts at \$40 for incomes over 200% of the federal poverty level, and \$8.00 is added for each 10% increment above 200% of the FPL. Therefore an income of 242% of the FPL would start at \$40 for the first 200%, and the remaining 42% would result in an additional \$32.00 ($4 \times \$8 = 32$) for a total full premium of \$72.00. Because the appellant is responsible for her Medicare premium, MassHealth calculated a supplemental premium pursuant to 130 CMR 506.011(B)(2)(c), by taking 65% of the full premium, for a supplemental premium of \$46.80 ($\$72 \times 65\% = \46.80).

MassHealth correctly determined the appellant's MassHealth coverage type and monthly premium. The appeal is 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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center