

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied in part; Approved in part	Appeal Number:	2306664
Decision Date:	11/1/2023	Hearing Date:	09/14/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Sherri Paiva (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

Appeal Decision:	Denied in part; Approved in part	Issue:	Coverage Downgrade; Premium Billing
Decision Date:	1/1/2023	Hearing Date:	09/14/2023
MassHealth's Rep.:	Sherri Paiva; Karishma Raja	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Taunton MassHealth Enrollment Center		

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 30, 2023, MassHealth notified the appellant that it was changing his health benefits from MassHealth Standard to CommonHealth because of a change in his circumstances and that he would have to pay a premium of \$96 per month. (See 130 CMR 502.000 and 610.00 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on August 4, 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)).

Action Taken by MassHealth

MassHealth downgraded the appellant's MassHealth coverage from Standard to CommonHealth with the requirement that he pay a monthly premium of \$96.

Issue

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 505.002 and

505.004, in determining that the appellant's coverage should be downgraded, whether MassHealth correctly calculated the premium, and whether there are other factors that would permit waiver of the premium.

Summary of Evidence

The MassHealth representative stated that this is a household of two who are joint tax filers. The appellant is under the age of 64. (Ex. 1). Previously, the household income was equivalent to 80.45% of the Federal Poverty Level (FPL) and the appellant was eligible of MassHealth Standard as a disabled person. (Ex. 3). The household's gross monthly income has increased to \$4,525, which places the appellant at 270.39% of the FPL. The income standard for MassHealth Standard for a disabled individual is 133% of the FPL. The appellant is therefore over the income limit for MassHealth Standard.

The appellant, however, was found to be eligible for MassHealth CommonHealth but with a monthly premium of \$96. (Ex. 1). The Premium Billing Representative testified that MassHealth has billed the appellant for premiums in July, August, and September. (Ex. 5). These have not been paid and the appellant currently owed MassHealth \$288 in unpaid premiums. (Ex. 5). The Premium Billing Representative explained that MassHealth determined the premium in accordance with a schedule in the MassHealth regulations. (See 130 CMR 506.011(B)(2)(b)). For individuals with income above 200% of the FPL, MassHealth starts with a base figure of \$40 and then adds \$8 for each additional 10% of FPL. The Premium Billing Representative stated that based on this formula, the appellant's premium was \$96 per month.

The appellant stated that he has financial hardships. He stated that he is responsible for paying for the bills, including the premium. The appellant has a son who is still in school and a daughter from his first marriage who comes to visit him, and this causes further expense. The appellant stated that all the expenses, including paying the monthly premium, would not leave very much money for food. The appellant stated that he does not receive Food Stamps/SNAP benefits.

Findings of Fact

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

1. The appellant lives in a household of two who are joint tax filers. (Testimony of the MassHealth representative).
2. The appellant is under the age of 64 and is a citizen. (Ex. 3).
3. Previously, the household income was equivalent to 80.45% of the FPL and the appellant was eligible of MassHealth Standard as a disabled person. (Ex. 3; Testimony of the MassHealth representative).

4. The household's gross monthly income has increased to \$4,525, which places the appellant at 270.39% of the FPL. (Testimony of the MassHealth representative; Ex. 1).
5. The income standard for MassHealth Standard for a disabled individual is 133% of the FPL. (Testimony of the MassHealth representative).
6. The appellant is eligible for CommonHealth with a monthly premium. (Ex. 1; Testimony of the MassHealth representative).
7. MassHealth determined the premium in accordance with the formula for premiums described at 130 CMR 506.011(B)(2)(b). (Testimony of the Premium Billing Representative).
8. According to the formula, MassHealth starts with a base figure of \$40 at 200% of the FPL and then adds \$8 for each 10% of FPL the appellant's income is over 200% of the FPL. (Testimony of the Premium Billing Representative).
9. The appellant's premium is therefore \$96. (Ex. 1).
10. The appellant has been billed premiums for July, August, and September but has not paid and currently owes MassHealth \$288. (Testimony of the Premium Billing Representative; Ex. 5).
11. The appellant is responsible for paying household expenses, and adding the expense of the monthly premium would leave very little money for food. (Testimony of the appellant).

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 disabled¹; the modified adjusted gross income of the

¹ 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.).

MassHealth Disabled Adult household² is less than or equal to 133% of the FPL; the individual is a citizen or a qualified noncitizen³; 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 adults must be 21 through 64 years old; be permanently and totally disabled; be ineligible for MassHealth Standard; be a citizen or a qualified noncitizen; meet a one-time-only deductible in accordance with 130 CMR 506.009: The One-time Deductible; or have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 200% of the FPL and provide verification that they are HIV positive; and comply with 130 CMR 505.004(J).(130 CMR 505.004(C)).

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 270.39% 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 under the age of 64 and is a citizen. The appellant is disabled. MassHealth's decision to downgrade the appellant's coverage was therefore correct.

MassHealth also correctly calculated the appellant's premium based on his income. According to MassHealth regulations, MassHealth starts with a base figure of \$40 at 200% of the FPL and then adds \$8 for each 10% of FPL. Because the appellant's income was at 270.39% of the FPL, MassHealth started with \$40 and then added \$56 (\$8 multiplied by 7) to reach a premium of \$96.

The appellant did argue that there was financial hardship with the payment of the premiums. The appellant stated that the payment of the premium on top of the other household expenses would leave very little money for food. MassHealth does permit waiver of premiums for certain "undue hardships" sufficient to permit waiver of the premium. This is described at 130 CMR 506.011(G) as follows:

...Undue financial hardship means that the member has shown to the satisfaction of the MassHealth agency that at the time the premium was or will be charged, or when the individual is seeking to reactivate benefits, the member

- (a) is homeless, or is more than 30 days in arrears in rent or mortgage payments, or has received a current eviction or foreclosure notice;
- (b) has a current shut-off notice, or has been shut off, or has a current refusal to

² 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)).

³ See 130 CMR 504.002 and 504.003(A)(1).

deliver essential utilities (gas, electric, oil, water, or telephone);

(c) has medical and/or dental expenses, totaling more than 7.5% of the family group's gross annual income, that are not subject to payment by the Health Safety Net, and have not been paid by a third-party insurance, including MassHealth (in this case "medical and dental expenses" means any outstanding medical or dental services debt that is currently owed by the family group or any medical or dental expenses paid by the family group within the 12 months prior to the date of application for a waiver, regardless of the date of service);

(d) has experienced a significant, unavoidable increase in essential expenses within the last six months;

(e) 1. is a MassHealth CommonHealth member who has accessed available third-party insurance or has no third-party insurance; and

2. **the total monthly premium charged for MassHealth CommonHealth will cause extreme financial hardship the family, such that the paying of premiums could cause the family difficulty in paying for housing, food, utilities, transportation, other essential expenses, or would otherwise materially interfere with MassHealth's goal of providing affordable health insurance to low-income persons;** or

(f) has suffered within the six months prior to the date of application for a waiver, or is likely to suffer in the six months following such date, economic hardship because of a state or federally declared disaster or public health emergency. (Emphasis added).

The appellant stated that the expense of paying the monthly premium, in addition to his other expenses, would leave very little money for food. Since these expenses fall within the definition of "undue hardship" as used above, the appellant has shown that the premium should be waived for the time being.

For the above stated reasons, the appeal is DENIED IN PART and APPROVED IN PART.

Order for MassHealth

Waive the monthly premiums from July 2023 forward. At the end of 12 months from July 2023, the appellant must submit a hardship waiver in order to claim undue hardship moving forward.

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.

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