

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied; Remand	<b>Appeal Number:</b>	2306895
<b>Decision Date:</b>	11/1/2023	<b>Hearing Date:</b>	09/20/2023
<b>Hearing Officer:</b>	Emily T. Sabo		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Denine Austin, Quincy 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

<b>Appeal Decision:</b>	Denied; Remand	<b>Issue:</b>	CommonHealth Premium; Premium Hardship Waiver
<b>Decision Date:</b>	11/1/2023	<b>Hearing Date:</b>	09/20/2023
<b>MassHealth's Rep.:</b>	Denine Austin, Quincy MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South (Telephone)	<b>Aid Pending:</b>	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 June 27, 2023, MassHealth determined that the Appellant is eligible for MassHealth CommonHealth and that he owes a monthly premium of \$64 beginning July 2023 (see 130 CMR 506.011 and Exhibit 1). The appellant filed this appeal in a timely manner on August 9, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Reduction of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the Appellant owes a monthly premium of \$64, starting in July 2023.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011(B)(2)(b), in determining that the Appellant owes a monthly premium of \$64. A secondary issue, raised at the hearing, is whether the Appellant qualifies for a waiver or reduction of premiums for undue

financial hardship, pursuant to 130 CMR 506.011(G).

## **Summary of Evidence**

The MassHealth representative appeared at the hearing telephonically and testified as follows: the Appellant is an adult between the ages of 21-64 and has a household of one. The MassHealth representative testified that the Appellant was determined to be disabled on March 25, 2019, and became eligible for MassHealth CommonHealth on December 9, 2022. The MassHealth representative testified that based on the income information provided by the Appellant, MassHealth determined that the Appellant had a projected annual income of \$34,000, which is over 150% of the Federal Poverty Level. For 2023, for a household of one, 200% of the Federal Poverty Level is an annual income of \$29,160. The MassHealth representative testified that due to the Appellant's income, MassHealth assessed that the Appellant owed a premium of \$64/monthly starting in July 2023. The MassHealth representative testified that based on earlier income information, MassHealth had notified the Appellant that he owed a premium of \$48/monthly starting in December 2022, and a premium of \$112/monthly in June 2023.

The Appellant appeared at the hearing telephonically and verified his identity. He testified that he had worked as a general contractor until he lost the use of his feet in 2015. He testified that he has had multiple surgeries and that his right foot was amputated. He testified that his brain was damaged, and his vision is deteriorating. The Appellant testified that he has experienced homelessness, including living in the woods, and that he is unable to afford a premium. The Appellant testified that his current income is based on his work as a personal care attendant, and that the person who he performs personal care attendant work for has allowed him to live in a room in her home. The Appellant testified that he has pushed himself his entire life and that he will keep pushing to improve his health. He testified that he is trying to find a career that fits his current abilities. The Appellant explained that he was confused by the changing amounts of his monthly premium. The Appellant testified that his income is based on the number of hours that he is assigned to work weekly and that it varies. The Appellant testified that he is seeking a year-long break in paying the premium or, alternatively, a reduction in his premium, so that he can improve his situation.

## **Findings of Fact**

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

1. The Appellant is an adult between the ages of 21-64.
2. The Appellant has a household size of one.
3. The Appellant has an annual projected income of \$34,000.

4. For 2023, for a household of one, 200% of the Federal Poverty Level is an annual income of \$29,160.

## Analysis and Conclusions of Law

MassHealth may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150 % of the Federal Poverty Level (FPL), as provided in 130 CMR 506.011. Specifically, 130 CMR 506.011(B)(2)(b), provides the following formula for CommonHealth members:

The full premium formula for young adults with household income above 150% of the FPL, adults with household income above 150% of the FPL, and children with household income above 300% of the FPL is provided as follows. The full premium is charged to members who have no health insurance and to members for whom the MassHealth agency is paying a portion of their health insurance premium.

<b>CommonHealth Full Premium Formula Young Adults and Adults above 150% of the FPL and Children above 300% of the FPL</b>		
<b><i>Base Premium</i></b>	<b>Additional Premium Cost</b>	<b>Range of Monthly Premium Cost</b>
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

An annual income of \$34,000 is 233% of the Federal Poverty Level. Accordingly, using the calculation provided by 130 CMR 506.011(B)(2)(b), here, the Appellant's premium is \$40 + (\$8 x 3)

= \$64. Therefore, MassHealth did not err in calculating the Appellant's premium at \$64/monthly, and the appeal regarding the \$64 monthly premium is denied.

At hearing, the Appellant explained that he was looking for a break in paying his premiums, a waiver of past due premiums, or alternatively, a reduction in his premiums. MassHealth may terminate a member's eligibility for benefits if a premium bill is not paid within 60 days,<sup>1</sup> unless the member requests a waiver of past-due premiums as described in 130 CMR 506.011(G). 130 CMR 506.011(D)(1). If such a waiver of premiums is granted, MassHealth will reactivate coverage following termination. 130 CMR 506.011(E)(1).

MassHealth's regulation regarding waiver or reduction of premiums for undue financial hardship is set forth in 130 CMR 506.011(G):

(G) Waiver or Reduction of Premiums for Undue Financial Hardship.

(1) 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 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

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<sup>1</sup> If the Appellant's benefits are terminated due to delinquent premium payments, MassHealth will send the Appellant a termination notice, which the Appellant would also have the opportunity to appeal.

- (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.
- (2) If the MassHealth agency determines that the requirement to pay a premium results in undue financial hardship for a member, the MassHealth agency may, in its sole discretion
  - (a) waive payment of the premium or reduce the amount of the premiums assessed to a particular family; or
  - (b) grant a full or partial waiver of a past due balance. Past due balances include all or a portion of a premium accrued before the first day of the month of hardship; or
  - (c) both 130 CMR 506.011(G)(2)(a) and (b).
- (3) Hardship waivers may be authorized for 12 months. At the end of the 12-month period, the member may submit another hardship application.
  - (a) The 12-month time period begins on the first day of the month in which the hardship application and supporting documentation is received by the MassHealth agency.
  - (b) The 12-month time period may be retroactive to the first day of the third calendar month before the month of hardship application.
- (4) If a hardship waiver is granted and past due balances are not waived, the MassHealth agency will automatically establish a payment plan for the member for any past due balances.
  - (a) The duration of the payment plan will be determined by the MassHealth agency. The minimum monthly payment on the payment plan will be \$5.
  - (b) The member must make full monthly payments on the payment plan for the hardship waiver to stay in effect. Failure to comply with the established payment plan will terminate the hardship waiver.

Regarding the Appellant's request for a hardship waiver of the premium, a full or partial waiver of the past due balance, or both, this request is remanded to MassHealth to determine, whether the Appellant meets the conditions outlined in 130 CMR 506.011(G). The Appellant is directed to provide MassHealth with evidence that he is experiencing any of the above financial hardships.

While outside the scope of the issue appealed, the Appellant expressed a desire in vocational rehabilitation training, and may benefit from contacting the Massachusetts Rehab Commission—South Office, at 80 Optical Drive, Southbridge, MA 01550; Phone: (508) 478-0700.

## **Order for MassHealth**

Determine whether the Appellant is entitled to a waiver of the premium, a full or partial waiver of the past due balance, or both pursuant to 130 CMR 506.011(D), (E), (F), and (G).

## **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.

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Emily T. Sabo  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

Premium Billing