

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307194
Decision Date:	11/21/2023	Hearing Date:	10/03/2023
Hearing Officer:	[REDACTED]		

Appearance for Appellant:



Appearance for MassHealth:

Sherri Paiva, Taunton MEC  
Karishma Raja, Premium 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; CommonHealth Premium
<b>Decision Date:</b>	11/21/2023	<b>Hearing Date:</b>	10/03/2023
<b>MassHealth's Rep.:</b>	Sherri Paiva; Karishma Raja	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (Remote)	<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 August 11, 2023, MassHealth approved Appellant for CommonHealth with an assessed premium of \$18 per-month starting September 2023. See Exhibit 1. On August 18, 2023, Appellant's mother appealed the notice in a timely manner, however, she did not provide proof that she had authorization to appeal on Appellant's behalf. See Exh. 2. On August 18, 2023, the Board of Hearings (BOH) dismissed the appeal for lack of authority under 130 CMR §§ 610.034, 610.035. See Exh. 3. On August 28, 2023, Appellant's mother sent BOH an insufficient response to vacate the dismissal; however, on September 14, 2023, she provided an updated fair hearing request signed by Appellant and which designated her as an appeal representative. See Exhs. 4 and 5. On September 15, 2023, BOH vacated the dismissal and scheduled a hearing for October 3, 2023. See Exh. 6. Challenging the scope and/or amount of assistance is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved Appellant for CommonHealth with a monthly premium of \$18.

## Issue

The appeal issue is whether MassHealth correctly calculated the premium of \$18 per-month for Appellant's CommonHealth coverage.

## Summary of Evidence

A MassHealth eligibility representative appeared at the hearing telephonically and testified as follows: Appellant is an adult male under the age of 65 with a verified disability. He is a tax filer and is in a household size of one (1). Appellant has received continuous MassHealth CommonHealth since March 1, 2022.<sup>1</sup> The eligibility representative explained that CommonHealth is a MassHealth coverage type for disabled individuals that have a household income over 133% of the federal poverty level (FPL). CommonHealth members are subject to a premium that is calculated based on their household income. At the time of Appellant's approval in 2022, MassHealth waived the premium requirement because of protections afforded through the federal Public Health Emergency (PHE). The PHE lifted in April 2023.

During the PHE, MassHealth received income information from Appellant showing that he works part-time at a grocery store and earns \$264.38 weekly. He also receives unearned social security income of \$1,154.10 per-month. Appellant has a total gross monthly income amount of \$2,299.65, which, for a household of one (1), places him at 184.27% of the FPL. Based on the income information received, MassHealth issued a notice dated August 11, 2023, informing Appellant that he had been approved for CommonHealth with a coverage start date of 8/1/23 and that he would be responsible for paying a monthly premium of \$18.00 starting September 2023.<sup>2</sup> See Exh. 1.

The MassHealth representative explained that, because of his disability, Appellant receives Medicare as a primary insurance and that CommonHealth serves as a supplemental benefit. MassHealth regulations detail the methodology the agency uses for calculating an individual's premium amount. Specifically, the premium starts at \$15 monthly for households that are at 150% of the FPL. For each 10% increment increase to the FPL, MassHealth adds an additional \$5 to the premium. Because Appellant's FPL was 30% over the base amount of 150% (180% -

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<sup>1</sup> Appellant received CommonHealth prior to this, including between 2015 and 2017.

<sup>2</sup> The 8/11/23 notice appeared to be an approval for a *continuation* of Appellant's CommonHealth benefit, as Appellant was continuously enrolled in this coverage type since March of 2022. It was also noted that on March 4, 2023, Appellant received a similar MassHealth notice advising him of the \$18.00 premium beginning April 2023 and which used the same income figures as were in the 8/11/23 notice. The premium billing representative explained that although the PHE lifted in April 2023, it did not start billing members until June 2023.

189%), MassHealth added \$15 ( $\$5 \times 3$ ) to the base amount of \$15, which came to \$30. Where the member's CommonHealth coverage is supplemental, as it is here, MassHealth applies a supplemental credit to the premium. Based on Appellant's total income, his premium was reduced to 60% of the full premium amount, which amounted to \$18 ( $30 \times .6$ ), as reflected in the 8/11/23 notice.

A representative from MassHealth's premium billing unit appeared at hearing and testified that following the 8/11/23 notice, Appellant was billed the September premium of \$18, which he since paid. The only other premium bill was from June 2023, after the PHE lifted and which was also paid in full. As of the hearing date, Appellant's account was paid in full.

Appellant and his mother appeared at the hearing by telephone and testified that Appellant has cerebral palsy and has been disabled his entire life. The mother argued that it is extremely unreasonable for MassHealth to charge a premium obligation to someone who is disabled with limited income and in the face of inflation to the cost of living. She did not dispute Appellant's income figures as stated by MassHealth, but rather, questioned how anyone at 184% of the FPL could not be considered living under the poverty level. The figures and formula that MassHealth uses do not match reality. The mother explained that Appellant lives with her and that he contributes to rent at \$825 per-month, which is a fraction of what he would have to pay if he did not live with her. An additional \$125 per week comes out of his paycheck to pay for groceries. He also needs money to buy clothes, home maintenance costs, and whatever other necessary expenses come up. He uses the little money left over, if any, to attend special Olympics bowling which is \$13 per-week.

Appellant's mother testified that she is over the age of 65, retired, and has serious health issues of her own. She explained that her own income is limited such that she is using her savings to pay monthly bills, and this is not sustainable. The only reason Appellant's premium has been paid, is because she took money from her savings to pay it. If she did not provide the support she does, Appellant would be unable to pay the premium. She further noted that Appellant has the supplemental benefit because it is recommended, but that he is not a burden on insurance. Rather, he is healthy, does not take medications, and rarely has medical appointments beyond his annual physical. For these reasons, Appellant disputed the \$18 premium.

## **Findings of Fact**

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

1. Appellant is an adult male under the age of 65 with a verified disability; he is a tax filer and is in a household size of one (1).
2. Appellant has received continuous MassHealth CommonHealth coverage since March 1, 2022.
3. Appellant receives a total gross monthly income of \$2,299.65.
4. MassHealth issued a notice dated August 11, 2023, informing Appellant that he had been approved for CommonHealth with a coverage start date of 8/1/23 and that he would be responsible for paying a monthly premium of \$18.00 starting September 2023.
5. Appellant has Medicare as his primary insurance and his CommonHealth is a supplemental benefit.
6. MassHealth billed Appellant his premium of \$18, which was since paid and he has a zero balance on his account.
7. Appellant has cerebral palsy and has been disabled his entire life.
8. Appellant lives with his mother and spends his income on rent, groceries, household expenses, clothes, and other necessary costs of daily living.

## Analysis and Conclusions of Law

This appeal addresses whether MassHealth erred in issuing its 8/11/23 notice, which informed Appellant that he was approved for CommonHealth with an assessed premium of \$18.00 per-month. Here, there is no dispute that Appellant is eligible for MassHealth CommonHealth as a “working disabled adult.”<sup>3</sup> See 130 CMR 505.004(B). The question on appeal turns towards MassHealth’s requirement that Appellant pay a monthly premium to maintain his coverage.

As stated in MassHealth eligibility regulations, those who qualify for CommonHealth, like Appellant, “may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2).” See 130 CMR 505.004(I). The premium obligation is required when the CommonHealth eligible individual has a household income that exceeds 150% of the FPL. See 130 CMR 506.011.<sup>4</sup> The premium amount is calculated “based on a member’s household

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<sup>3</sup> Appellant satisfies the criteria to qualify as a working disabled adult who is financially ineligible for Standard, as his income exceeds 133% of the FPL. See id.

<sup>4</sup> Although MassHealth sets forth a limited number of exceptions to this general rule, there is no evidence that

modified adjusted gross income (MAGI), their household size, and the premium billing family group (PBF) rules as described in 130 CMR 506.011(A).” *Id.* For adult members, like Appellant, who are eligible for CommonHealth under 130 CMR 505.004(B)-(C), MassHealth sets forth, in relevant part, the following premium formula:

(b) The ***full premium formula*** for . . . adults with household income above 150% 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>Base Premium</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

(c) The ***supplemental premium formula*** for young adults, adults, and children with household income above 300% of the FPL 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.

<b>CommonHealth Supplemental Premium Formula</b>	
<b>% of Federal Poverty Level (FPL)</b>	<b>Monthly Premium Cost</b>
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

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Appellant met the criteria to be exempt from the premium requirement. See 130 CMR 506.011(J).

Above 800% to 1000%	80% of full premium
Above 1000%	85% of full premium

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See 130 CMR 506.011(B)(2).

Thus, to ascertain the correct premium amount, MassHealth must first determine the individual's FPL percentage. According to the 2023 MassHealth Income Standards and Federal Poverty Guidelines, 100% of the federal poverty level (FPL) for a household of one is \$1,215 per-month, or \$14,580 per year.<sup>5</sup> Appellant has an undisputed MAGI of \$2,299.65 per-month. This income figure would place Appellant at 189.27% of the FPL  $[(2,299.65 / 1,215) \times 100 = 189.27]$ . At hearing, and pursuant to the 8/11/23 notice, MassHealth calculated Appellant's household income at 184.27% of the FPL. It is unclear if MassHealth applied a deduction in its income calculation that would have caused it to arrive at a lower FPL percentage. While this discrepancy does not have any impact on the outcome of the premium calculation (as discussed below), this decision will apply the lower, more favorable, FPL percentage calculated by MassHealth.

Next, MassHealth must determine the full monthly premium for the individual. In this case, the appropriate formula for a disabled adult with income at 184.27% of the FPL, is set forth in the above chart entitled "*CommonHealth Full Premium Formula ... Adults above 150% of the FPL*". See 130 CMR 506.011(B)(2)(b). The base premium, according to the chart, is \$15 per-month for those with income at 150% of the FPL. *Id.* MassHealth then adds \$5 for each additional 10% of the FPL until the FPL exceeds 200%. *Id.* Because Appellant's FPL range is between 180% and 189.99%, MassHealth correctly added an additional 3 units of \$5 (\$15) to the base premium of \$15 to arrive at a full premium amount of \$30 per-month  $(\$15 + \$15 = \$30)$ .

Because, however, Appellant receives CommonHealth as a supplemental benefit,<sup>6</sup> he is subject to a lower premium amount, as set forth in the "*CommonHealth Supplemental Premium Formula*" chart above. See 130 CMR 506.011(B)(2)(c). With an FPL between 150% to 200%, MassHealth correctly reduced Appellant's premium to 60% of the full monthly premium cost. *Id.* Applying this credit, MassHealth calculated Appellant's actual premium at \$18 per-month  $(\$30 \times .60 = \$18)$ .

Based on the above, MassHealth correctly determined Appellant's monthly premium amount.

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<sup>5</sup> These figures are updated annually. The current version is publicly available at:

<https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>

<sup>6</sup> Members that have CommonHealth as a supplemental benefit will not qualify for the reduced premium amount if they are receiving a MassHealth premium assistance benefit. Under the premium assistance program, qualifying members receive financial assistance from MassHealth to help cover the cost of the premium for their primary insurance, such as an employer-sponsored insurance. As Appellant does not receive premium assistance, he qualifies for the supplemental credit.

Appellant's mother also argued that the income figures and formulas used by MassHealth to calculate the premium fail to consider cost-of-living increases and exceed the amount someone with Appellant's income could realistically pay for a premium. This concern, while duly noted, pertains to an issue that is beyond the scope of the hearing officer's jurisdiction. MassHealth Fair Hearing regulations state, in pertinent part:

***...the hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency.*** Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

130 CMR 610.082(C)(2) (emphasis added).

Appellant's challenge to the legality of MassHealth's premium obligation and formula cannot be addressed here and may be raised on judicial review.<sup>7</sup> See 130 CMR 610.082(C)(2).

As there was no error by MassHealth in calculating Appellant's premium, this 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.

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<sup>7</sup> Appellant may exercise her right to judicial review in accordance with 130 CMR 610.092 and as further described in the "Notification of Your Right to Appeal to Court" Section of this Decision.



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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

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

MassHealth Representative: Premium Billing

[REDACTED]