

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2307464
Decision Date:	01/23/2024	Hearing Dates:	10/13/2023; 11/29/2023
Hearing Officer:	Emily Sabo	Record Open to:	12/13/2023

Appearance for Appellant:

Pro se

Appearances for MassHealth:

Michael Bates & Asia Brown, Quincy MEC
Karishma Raja, Premium Billing
Sarah Prado, Premium Assistance



*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:	Approved in part; Denied in part	Issue:	CommonHealth Premium; Premium Billing; Premium Assistance
Decision Date:	01/23/2024	Hearing Dates:	10/13/2023; 11/29/2023
MassHealth's Rep.:	Michael Bates, Asia Bown, Karishma Raja, Sarah Prado	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South (Telephone)	Aid Pending:	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 28, 2023, MassHealth informed the Appellant that his minor child was approved for MassHealth CommonHealth plus Premium Assistance (Exhibit 1). The notice stated that the Appellant must pay a monthly premium fee to MassHealth of \$915.48 beginning July 2023. *Id.* The Appellant filed a timely appeal on August 22, 2023, questioning why the premium had significantly increased, while the household has primary, employer-sponsored insurance (see 130 CMR 610.015(B) and Exhibit 2). Challenging the amount or scope of MassHealth assistance is a ground for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth calculated a monthly premium of \$915.48 for the Appellant's child's CommonHealth coverage.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in determining that the Appellant's child's CommonHealth premium is \$915.48 a month.

Summary of Evidence

The parties appeared telephonically over the course of two hearing days.¹ MassHealth was represented by two representatives from the Quincy MassHealth Enrollment Center, a representative from Premium Billing, and a representative from Premium Assistance. The Appellant verified his child's identity. The parties agreed through their testimony on the following: the Appellant has a household size of four, consisting of the Appellant, his wife, and two children. The household has primary insurance through the wife's employer-sponsored insurance, which has a monthly cost of \$524.52. One of the children in the family has a verified disability and MassHealth has determined that the child is eligible for MassHealth CommonHealth as supplemental, secondary insurance. The Appellant's income is \$12,500 every two weeks; the Appellant's wife's income is \$2,886.53 every two weeks, resulting in a total household income of \$15,386.53 every two weeks. The Premium Assistance representative testified that Premium Assistance reimburses the household for their employer-sponsored insurance for \$524.52 monthly.

The parties disputed a number of other factual matters. The MassHealth representative testified that the Appellant's household income is 2224.42% of the federal poverty level. The Appellant testified that the most recent notice he received from MassHealth stated that the household income is 1328.7% of the federal poverty level. The Appellant testified that the household premium had been lower in the past, including during times when the household income was the same or higher. The MassHealth and Premium Billing representatives testified that the CommonHealth premium is \$1,224/month. The Premium Assistance representative testified that the CommonHealth premium is \$1,440/month, that Premium Assistance pays \$524.52 for the employer sponsored insurance, resulting in the charge to Appellant for \$915.48/month.

The record was held open until December 6, 2023, for the Appellant to submit evidence of the MassHealth premium bills he received and until December 13, 2023, for MassHealth to review and respond.

¹ During the first hearing day, the Appellant learned that the CommonHealth coverage had been terminated due to non-payment of premiums. The Appellant explained that he had not paid because he wanted to learn the outcome of the hearing. Between the first and second days of hearing, the Appellant paid the premiums so that the CommonHealth coverage would continue.

Findings of Fact

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

1. The Appellant lives in a household of four, consisting of himself, his wife, two minor children, one of whom is disabled (Testimony).
2. Through his wife's employer, the Appellant's family is enrolled in employer-sponsored insurance, and for which they owe \$524.52 monthly (Testimony).
3. The Appellant's minor son has MassHealth CommonHealth as secondary insurance (Testimony).
4. The Appellant's household income is, \$15,386.53 biweekly, or \$400,049.78 annually, or \$33,337.48 monthly (Testimony).
5. The Appellant received a notice, dated June 28, 2023, stating that the Appellant's child was eligible for MassHealth CommonHealth with Premium Assistance, and a monthly premium owed of \$915.48 starting in July 2023 (Exhibit 1).
6. The Appellant received a notice, dated October 17, 2023, stating that the Appellant's child was eligible for MassHealth CommonHealth, with a monthly premium of \$1,224 starting in November 2023 (Exhibit 8).
7. The Appellant received a premium bill for \$1,224 for November 2023 (Exhibit 9).
8. The Appellant received a notice, dated November 9, 2023, stating that the Appellant's child was eligible for MassHealth CommonHealth with Premium Assistance, starting on October 30, 2023, and a monthly premium owed of \$915.48 starting in December 2023 (Exhibit 10).

Analysis and Conclusions of Law

The MassHealth Regulations at 130 CMR 501.001 define the federal poverty level (FPL) as, "income standards issued annually in the *Federal Register* to account for the last calendar year's increase in prices as measured by the Consumer Price Index." For 2023, the *Federal Register* states that the FPL for a household of four is \$30,000 annually.

The premium formulas for MassHealth CommonHealth members whose eligibility is described in 130 CMR 505.004(B): *Disabled Working Adults* through (G): *Disabled Children Younger than 18 Years Old* are as follows:

(b) 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.

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

(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.

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

(d) CommonHealth members who are eligible to receive a premium assistance payment, as described in 130 CMR 506.012, that is less than the full CommonHealth premium receive their premium assistance payment as an offset to the CommonHealth premium assistance bill and are responsible for the difference.

130 CMR 506.011(B)(2)(b), (c), (d).

The Appellant's annual household income is \$400,049.78 and, after the 5% disregard of \$1,500 for a family of four, the countable income is \$398,549.78. This is 1328.50% of the federal poverty level for a family of four ($\$398,549.78 / \$30,000 = 1328.50\%$). Based on the above tables, the Appellant's child's full CommonHealth premium is \$1,440 ($\$928 + (\$16 \times 32) = \$1,440$). 130 CMR 506.011(B)(2)(b). If MassHealth did not contribute to the Appellant's employer-sponsored insurance, based on 130 CMR 506.011(B)(2)(c), the Appellant would be charged 85% of the premium or \$1,224 ($\$1,440 \times 85\% = \$1,224$).

However, MassHealth has found that the Appellant is eligible to receive a premium assistance payment, and so as outlined in 130 CMR 506.011(B)(2)(d), the Appellant's premium assistance payment is an offset to the CommonHealth member contribution bill of \$1,440. Pursuant to 130 CMR 506.012, *Premium Assistance Payments*:

(A) Coverage Types. Premium assistance payments are available to MassHealth members who are eligible for the following coverage types:

(1) MassHealth Standard, as described in 130 CMR 505.002: MassHealth Standard, with the exception of those individuals described in 130 CMR 505.002(F)(1)(d);

(2) MassHealth Standard for Kaileigh Mulligan, as described in 130 CMR 519.007: Individuals Who Would Be Institutionalized;

(3) MassHealth CommonHealth, as described in 130 CMR 505.004: MassHealth CommonHealth;

(4) MassHealth CarePlus, as described in 130 CMR 505.008: MassHealth CarePlus;

(5) MassHealth Family Assistance for HIV-positive adults and HIV-positive young adults, as described in 130 CMR 505.005(E): Eligibility Requirements for HIV-positive Individuals Who Are Citizens or Qualified Noncitizens with Modified Adjusted Gross Income of the MassHealth MAGI Household

Greater than 133 and Less than or Equal to 200% of the Federal Poverty Level;

(6) MassHealth Family Assistance for disabled adults whose Disabled Adult MassHealth household income is at or below 100% of the FPL and who are qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs, as described in 130 CMR 505.005(C): Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level;

(7) MassHealth Family Assistance for children younger than 19 years old and young adults 19 and 20 years of age whose household MAGI is at or below 150% of the FPL and who are nonqualified PRUCOLs, as described in 130 CMR 505.005(C): Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level;

(8) MassHealth Family Assistance for children younger than 19 years old whose household MAGI is between 150% and 300% of the FPL and who are citizens, protected noncitizens, qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs, as described in 130 CMR 505.005(C): Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level; and

(9) MassHealth Small Business Employee Premium Assistance Program, the rules and requirements of which are described in 130 CMR 506.013.

(B) Criteria. MassHealth may provide a premium assistance payment to an eligible member when all of the following criteria are met.

(1) The health insurance coverage meets the Basic Benefit Level (BBL) as defined in 130 CMR 501.001: Definition of Terms. Instruments including, but not limited to, Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.

(2) The health insurance policy holder is either

(a) in the Premium Billing Family Group or

(b) resides with the individual who is eligible for the premium assistance benefit and is related to the individual by blood, adoption, or marriage.

(3) At least one person covered by the health-insurance policy is eligible

for MassHealth benefits as described in 130 CMR 506.012(A) and the health-insurance policy is a policy that meets the criteria of the MassHealth coverage type for premium assistance benefits as described in 130 CMR 506.012(C).

(C) Eligibility. Eligibility for MassHealth premium assistance is determined by the individual's coverage type and the type of private health insurance the individual has or has access to. MassHealth has three categories of health insurance for which it may provide premium assistance.

(1) Employer-sponsored Insurance (ESI) 50% Plans are employer-sponsored health insurance plans to which the employer contributes at least 50% towards the monthly premium amount. MassHealth provides premium assistance for individuals with ESI 50% Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A).

(2) Other Group Insurance Plans are employer-sponsored health insurance plans to which the employer contributes less than 50% towards the monthly premium amount, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, and Other Group Health insurance. MassHealth provides premium assistance for individuals with Other Group Health Insurance Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A), except for individuals described in 130 CMR 506.012(A)(8).

(3) Non-group unsubsidized Health Connector individual plans for children only, provided that such plans shall no longer be eligible for premium assistance as of January 1, 2019, and the last premium assistance payment for these plans shall be for coverage through December 31, 2018;

(4) Members enrolled in any of the following types of health-insurance coverage are not eligible for premium assistance payments from MassHealth:

- (a) Medicare supplemental coverage, including Medigap and Medex coverage;
- (b) Medicare Advantage coverage;
- (c) Medicare Part D coverage; and
- (d) Qualified Health Plans (QHP).

(5) The following MassHealth members are not eligible for premium assistance payments as described in 130 CMR 506.012(C) from MassHealth:

- (a) MassHealth members who have Medicare coverage. However, for those members who meet the eligibility requirements set forth in 130 CMR 505.002(O), Medicare buy-in benefits may be available;
- (b) all nondisabled nonqualified PRUCOL adults, as described in 130 CMR 505.005(D): Eligibility Requirements for Adults and Young

Adults 19 and 20 Years of Age Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 300% of the Federal Poverty Level; and (c) disabled nonqualified PRUCOL adults with MassHealth Disabled Adult household income above 100% of the FPL, as described in 130 CMR 505.005(F): Eligibility Requirements for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal Poverty Level.

130 CMR 506.012 (A), (B), (C) (Emphases added).

Here, the Appellant and his family are enrolled in employer-sponsored insurance and MassHealth has determined that the plan meets the criteria set forth at 130 CMR 506.012(B), above. MassHealth has determined that it will pay the cost of the Appellant's responsibility toward payment of the employer-sponsored insurance premium of \$524.52/monthly.

Mirroring 130 CMR 506.011(B)(2)(d), 130 CMR 506.012(D)(2)(a)(3) provides that, "CommonHealth members who are eligible to receive a premium assistance payment as described in 130 CMR 506.012 that is less than the CommonHealth required member contribution receive their premium assistance payment as an offset to the CommonHealth monthly premium bill and are responsible for the difference." Accordingly, as the Appellant's CommonHealth required member contribution (\$1,440) is greater than the premium assistance payment of \$524.52, the Appellant is responsible for the difference, which is \$915.48 (\$1,440-\$524.52 = \$915.48). 130 CMR 506.012(D)(2)(a)(3). Therefore, MassHealth was correct in charging the Appellant a monthly premium of \$915.48, and the appeal regarding that charge is DENIED.

In the course of the hearing, the Appellant provided evidence that he was also charged a monthly premium of \$1,224 (Exhibits 8 and 9). The appeal is APPROVED regarding the \$1,224 charge and MassHealth is directed to modify the \$1,224 charge to \$915.48, and credit the Appellant for any overpayment.

Order for MassHealth

Adjust the Appellant's CommonHealth premium bill for November 2023 and any other erroneous monthly bills from \$1,224 to \$915.48 and credit the Appellant for any overpayment.

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, Office of Medicaid, at the address on the first page of this decision.

Emily T. Sabo, Esq.
Hearing Officer
Board of Hearings

cc:

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

Premium Assistance

Premium Billing