

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2310841
<b>Decision Date:</b>	12/22/2023	<b>Hearing Date:</b>	12/12/2023
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**

Pro se

**Appearance for MassHealth:**

Leslie Garcia, Tewksbury MEC

Karishma Raja, Maximum 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>	Approved	<b>Issue:</b>	130 CMR 506.011
<b>Decision Date:</b>	12/22/2023	<b>Hearing Date:</b>	12/12/2023
<b>MassHealth's Rep.:</b>	Leslie Garcia, Karishma Raja	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<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 September 12, 2023, MassHealth approved CommonHealth coverage with a \$136 monthly premium (130 CMR 505.004, 506.011 and Exhibit 1). Appellant filed this appeal in a timely manner on November 3, 2023 (130 CMR 610.015(B) and Exhibit 2). Notice of a CommonHealth premium due is valid grounds for appeal (see 130 CMR 610.032). A hearing was scheduled for December 4, 2023, and was rescheduled to December 12, 2023 by the Board of Hearings (Exhibit 3).

### Action Taken by MassHealth

MassHealth approved CommonHealth coverage with a \$136 monthly premium.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.004, 506.011, in approving CommonHealth with a \$136 monthly premium.

## Summary of Evidence

The MassHealth representative testified that Appellant completed an annual renewal. On September 12, 2023, MassHealth issued notice informing Appellant that she is eligible for CommonHealth with a \$136 monthly premium (Exhibit 1). Appellant is disabled and had been receiving CommonHealth coverage which was protected during the Public Health Emergency. Appellant's household size is 1. Appellant's household income is verified at \$572.20 per week from seasonal employment for the months of January through June, and September through December. MassHealth testified that gross monthly income is \$2,883.33 which equates to 325% of the federal poverty level for a household of 1 person. The MassHealth representative reviewed premium calculations based on income equating to 325% of the federal poverty level found in 130 CMR 506.011. MassHealth testified that a lower premium was calculated in 2015 and was based on \$1,957 monthly income which was not updated in MassHealth systems until 2023. The MassHealth representative from Premium Billing testified that Appellant was billed \$35 in March 2023 for April 2023, \$20 for August 2023 and \$20 for September 2023. Following the renewal in September 2023, Appellant was billed \$136 for October 2023 and November 2023 and has paid the premium. A premium bill for \$136 for December 2023 was issued and is pending payment. Documentation forwarded by MassHealth shows Appellant's monthly income is \$2,066.12 which equates to \$165.05% of the federal poverty level (Exhibit 4).

Appellant testified that the CommonHealth premium prior to September 2023 was \$40 per month, and she does not understand why there was an increase to \$136 per month when her income has remained essentially the same. Appellant testified that her seasonal income has been \$572.20 per week, and recently increased to \$600.60 per week, which she reported to MassHealth. Appellant also testified that she has no other income source.

## Findings of Fact

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

1. Appellant completed an annual renewal.
2. On September 12, 2023, MassHealth issued notice informing Appellant that she is eligible for CommonHealth with a \$136 monthly premium.
3. Appellant is disabled and had been receiving CommonHealth coverage which was protected during the Public Health Emergency.
4. Appellant's household size is 1.
5. Appellant's verified household income is \$572.20 per week from seasonal employment for

the months of January through June, and September through December.

6. Appellant was billed \$35 in March 2023 for April 2023, \$20 for August 2023 and \$20 for September 2023.
7. Appellant was billed \$136 for October 2023 and November 2023 and has paid the premium. A premium bill for \$136 for December 2023 was issued and is pending payment.
8. 325% of the federal poverty level for a household of 1 person is \$3,948.
9. Appellant's seasonal monthly income is \$2,066.12, which equates to 170.05% of the federal poverty level.
10. MassHealth calculated Appellant's Disabled Adult Household income at 165.05% of the federal poverty level.

## Analysis and Conclusions of Law

Effective April 1, 2023, MassHealth no longer maintains continuous coverage related to the COVID-19 pandemic for members if they have been successfully renewed in the last 12 months.<sup>1</sup> A renewal application was submitted on October 26, 2023. Therefore, Appellant's application and eligibility is determined based on MassHealth coverage criteria.<sup>2</sup> Regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*.

The MassHealth coverage types are set forth at 130 CMR 505.001(A) as follows:

- (1) Standard – for pregnant women, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard; (emphasis added)**
- (3) CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;

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<sup>1</sup> See Eligibility Operations Memo 23-11 April 2023.

<sup>2</sup> See Eligibility Operations Memo 23-18 July 2023.

- (4) Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) Small Business Employee Premium Assistance – for adults or young adults who
  - (a) work for small employers;
  - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
  - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
  - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) Senior Buy-In and Buy-In – for certain Medicare beneficiaries.

The financial standards referred to in 130 CMR 505.000 et. seq. use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: *Household Composition* (130 CMR 505.001(B)).<sup>3</sup> MassHealth correctly determined that Appellant is a Disabled Adult Household of 1 person (130 CMR 506.002(C)). Countable household income includes earned, unearned, and rental income.<sup>4</sup> Appellant is eligible for CommonHealth as a working disabled adult (130 CMR 505.004).<sup>5</sup> Appellant's verified seasonal income is \$572.20 per week which is \$2066.12 per month<sup>6</sup>, and equates to 170.05% of

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<sup>3</sup> See 130 CMR 506.002 (A)(2): MassHealth Disabled Adult Household. MassHealth uses the MassHealth Disabled Adult household composition rules to determine member eligibility for the following benefits: (a) MassHealth Standard, as described in 130 CMR 505.002(E): *Disabled Adults*; (b) MassHealth CommonHealth, as described in 130 CMR 505.004(B) through (E); and (c) MassHealth Family Assistance, as described in 130 CMR 505.005(F): *Eligibility Requirement 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*.

<sup>4</sup> See 130 CMR 506.003 (A)-(C).

<sup>5</sup> See 130 CMR 505.004(B) Disabled Working Adults. Disabled working adults must meet the following requirements: (1) be 21 through 64 years of age (for those 65 years of age or older, see 130 CMR 519.012: *MassHealth CommonHealth*); (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review; (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: *Definition of Terms*; (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) be ineligible for MassHealth Standard; and (6) comply with 130 CMR 505.004(J).

<sup>6</sup> Appellant's \$572.20 per week income is seasonal as testified to by MassHealth and corroborated by Appellant, therefore:  $\$572.20 \times 4.333 = \$2,479.34$  per month  $\times 10$  months =  $\$24,793.4/12$  months =  $\$2,066.12$  (130 CMR 506.003(A)(4)) and Exhibit 4.

the federal poverty level for a Disabled Adult Household size of 1.<sup>7</sup> MassHealth records show a 325% Disabled Adult Household Federal Poverty Level (FPL) testified to by MassHealth and used in calculating the \$136 monthly premium for October 2023, November 2023, and December 2023 (Exhibit 4). The same MassHealth records also show the Disabled Adult Household Federal Poverty Level (FPL) at 165.05% based on self-reported income (Id.). While not explained by MassHealth at hearing, the calculation presumably factors in a disregard at 130 CMR 506.007(A)(3). As the parties agree that Appellant's earned income is her only income, there is no evidence that Appellant's earned income correlates to 325% of the FPL, \$3,948 per month. Therefore, I conclude that the MassHealth CommonHealth premium calculation based on 325% of the federal poverty level is an error. Accordingly, the CommonHealth premium calculation below is based on Appellant's seasonal income which equates to 165.05% of the FPL as calculated by MassHealth.

Pursuant to 130 CMR 505.004(I), disabled adults, disabled working adults, disabled young adults, and disabled children who meet the requirements of 130 CMR 505.004 may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2)(b). The Full Premium Formula for adults with household income above 150% of the FPL is provided below. 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

Appellant's gross seasonal household income is \$2,066.12 per month, which equates to 165.05%

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<sup>7</sup> \$2,066.12/\$1,215 (100% of FPL) = 1.7005 x 100=170.05% FPL.

of the federal poverty level as discussed above. The CommonHealth premium is calculated as follows: \$15 with an increase of \$5 for every 10% interval (\$15 + \$5) to arrive at a CommonHealth Full Premium amount of \$20. Because MassHealth incorrectly calculated a CommonHealth premium of \$136, the appeal is APPROVED pursuant to the order below.

## **Order for MassHealth**

Determine a premium of \$20 per month for October 2023, November 2023, and December 2023, and reimburse Appellant any amounts paid in excess of \$20 for each of these months. Continue a premium of \$20 thereafter. Recalculate the CommonHealth premium accordingly if Appellant reports a change in income.

## **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.

## **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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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: Appeals Coordinator: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-19572  
Maximus Premium Billing: Attn. Karishma Raja, 1 Enterprise Drive, Suite 310, Quincy, MA 02169