

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311093
Decision Date:	12/20/2023	Hearing Date:	12/15/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Elizabeth Nickoson, Taunton 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

Appeal Decision:	Denied	Issue:	Eligibility
Decision Date:	12/20/2023	Hearing Date:	12/15/2023
MassHealth's Rep.:	Elizabeth Nickoson	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 October 26, 2023, MassHealth notified Appellant that MassHealth coverage for her minor child would change from Standard to CommonHealth with a \$253.40 monthly premium (130 CMR 505.002, 505.004, 506.011 and Exhibit 1). Appellant filed this appeal in a timely manner on November 7, 2023 (130 CMR 610.015(B) and Exhibit 2). Notice of a change in the level of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant that MassHealth coverage for her minor child would change from Standard to CommonHealth with a \$253.40 monthly premium.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002, 505.004, 506.011, in changing coverage for Appellant's minor child from Standard to CommonHealth with a \$253.40 monthly premium.

Summary of Evidence

The MassHealth representative testified that Appellant completed a renewal on October 26, 2023. Appellant's minor child is disabled and had been receiving MassHealth Standard coverage from September 9, 2019 through November 9, 2023, and was protected during the Public Health Emergency. Appellant's household size is 4 including herself, her spouse, and two children. Appellant's household income was verified at \$14,230.66 per month from employment, which equates to 564.23% of the federal poverty level. Appellant's gross monthly income is \$9,630.65, and her spouse's gross monthly income is \$4,600. Because income exceeds 150% of the federal poverty level, \$3,750 per month, coverage for Appellant's disabled minor child was changed from Standard to CommonHealth with a \$253.40 monthly premium. The MassHealth representative testified to CommonHealth premium calculations set forth in 130 CMR 506.011. MassHealth also provided information about the Premium Assistance program. A representative from Premium Billing testified that Appellant is currently responsible for November 2023 and December 2023 premiums totaling \$506.80. The Premium Billing representative testified that if Appellant decides to cancel CommonHealth before January 24, 2023, she will not be responsible for payments. However, if she elects to continue CommonHealth coverage, she will receive premium bills each month.

Appellant testified that her minor child is disabled, and in addition to being enrolled in MassHealth, is enrolled in her employer-sponsored health insurance which costs \$267 per week and an additional \$25 for dental coverage. Appellant testified that she cannot afford to pay the CommonHealth premium.

Findings of Fact

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

1. Appellant completed a renewal on October 26, 2023.
2. Appellant's minor child is disabled and had been receiving MassHealth Standard coverage from September 9, 2019 through November 9, 2023, and was protected during the Public Health Emergency.
3. Appellant's household size is 4 including herself, her spouse, and two children.
4. Appellant's household income is \$14,230.66 per month from employment, which equates to 564.23% of the federal poverty level.
5. Appellant's gross monthly income is \$9,630.65, and her spouse's gross monthly income is \$4,600.

6. 150% of the federal poverty level for a household of 4 is \$3,750 per month.
7. Appellant's disabled child is enrolled in her employer-sponsored health insurance.

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.¹ A renewal application was submitted on October 26, 2023. Therefore, Appellant's application and eligibility is determined based on MassHealth coverage criteria.² 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;
- (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

¹ See Eligibility Operations Memo 23-11 April 2023.

² See Eligibility Operations Memo 23-18 July 2023.

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)).³ Countable household income includes earned, unearned, and rental income,⁴ less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable at hearing.⁵ The change in coverage

³ (B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists of

- (a) the taxpayer; including his or her spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer's spouse, if living with him or her regardless of filing status;
- (c) all persons the taxpayer expects to claim as tax dependents; and
- (d) if any woman described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1., 2., or 3., the household consists of

1. the individual;
2. the individual's spouse, if living with him or her;
3. the taxpayer claiming the individual as a tax dependent;
4. any of the taxpayer's tax dependents; and
5. if any woman described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals

1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the taxpayer;
2. individuals younger than 19 years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;
3. individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent. For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

⁴ See 130 CMR 506.003 (A)-(C).

⁵ The following are allowable deductions from countable income when determining MAGI: (1) educator expenses; (2) reservist/performance artist/fee-based government official expenses;(3) health savings account;(4) moving

type and determination of a premium affect Appellant's minor child who is disabled and part of Appellant's household. Monthly gross household income is \$14,230.66, which equates to 564.23% of the federal poverty level.⁶ Appellant's disabled child is not eligible for CarePlus because he is not over 21 years of age (130 CMR 505.008). Appellant is not categorically or financially eligible for MassHealth Family Assistance (130 CMR 505.005) or MassHealth Limited which applies to certain non-citizens (130 CMR 505.006(B)(1)(a)(4)). Appellant's disabled child is not financially eligible for MassHealth Standard because countable income exceeds 150% of the federal poverty level, \$3,750 (130 CMR 505.002(B)(2)(a)(1)).⁷ Appellant's disabled child is eligible for CommonHealth (130 CMR 505.004(G)). 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 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 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:

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	Add \$5 for each additional 10% FPL until	\$15 — \$35

expenses;(5) self-employment tax;(6) self-employment retirement account; (7) penalty on early withdrawal of savings;(8) alimony paid to a former spouse; 9) individual retirement account (IRA);(10) student loan interest; and (11) higher education tuition and fees.

⁶ See 130 CMR 506.003: Countable household income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) less deductions described in 130 CMR 506.003(D). (A) Earned Income. (1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses. (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss. (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return. (4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

⁷ Appellant's minor child is not over 19 years of age; therefore 130 CMR 505.002(E) does not apply.

\$15	200% FPL	
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

Regulation 130 CMR 506.011(B)(2)(c) provides the Supplemental Premium Formula for young adults, adults, and children with household income above 300% of the FPL. 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

Appellant's gross household income is \$14,230.66 per month, which equates to 564.23% of the federal poverty level. The CommonHealth Supplemental Premium is calculated as follows: \$202 with an increase of \$10 for every 10% interval (\$202 + \$160) to arrive at a CommonHealth Full Premium amount of \$362, 70% of which is the CommonHealth Supplemental Premium of \$253.40 per month.

Because the MassHealth determination is correct, the appeal is DENIED.

Appellant can direct any questions about the Premium Assistance Program to 1-800-862-4840.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

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