

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311293
Decision Date:	1/16/2024	Hearing Date:	12/06/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Michelle Carvalho (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

Appeal Decision:	Denied	Issue:	Eligibility
Decision Date:	1/16/2024	Hearing Date:	12/06/2023
MassHealth's Reps.:	Michelle Carvalho (Taunton MEC) & Karishma Raja (Premium Billing)	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by 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 September 26, 2023, MassHealth notified the appellant that she was eligible for MassHealth CommonHealth beginning September 16, 2023. (130 CMR 505.000; Exhibit 1). The appellant filed an appeal in a timely manner on November 9, 2023. (130 CMR 610.015). An agency determination regarding the scope and amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant became eligible for MassHealth CommonHealth beginning September 16, 2023.

Issue

Whether MassHealth was correct in determining the appellant's eligibility for CommonHealth pursuant to 130 CMR 505.004.

Summary of Evidence

All parties appeared by telephone. A representative from the MassHealth Enrollment Center and one from the Premium Billing Unit (PBU) appeared to represent the agency. Documents submitted by the PBU were incorporated into the hearing record as Exhibit 4.

The appellant was approved for MassHealth CommonHealth on February 24, 2023 with a monthly premium of \$9.00 each month. The appellant is a family group of two. At the time of the initial eligibility decision, the appellant's family group had a total monthly income of \$2,394. After applying a regulatory 5% disregard of \$76.30, MassHealth determined that the appellant's countable income of \$2317.70 placed her at 151% of the federal poverty level. In February 2023, individuals with income above 150% of the federal poverty level who had other insurance paid 60% of the full premium. The full premium amount at the time of the February 2023 decision was \$15. Sixty percent of \$15 is \$9 which is the amount MassHealth determined was due. The appellant did not pay premiums of \$9 in June, July or August 2023. Therefore, MassHealth closed the appellant's case. Since that time, the appellant paid the premiums due and her coverage was reinstated. Both MassHealth representatives at hearing confirmed that there was no gap in coverage.

In October 2023, MassHealth received information about the appellant's income that included, \$1,337 in Social Security benefits for the appellant and \$1,074 in Social Security benefits for the appellant's husband. This total gross monthly income of \$2,411, and the regulatory 5% disregard of \$82.20 provided the appellant with countable income of \$2,328.80 and placed the appellant at 141.61% of the federal poverty level. As monthly premiums for MassHealth CommonHealth for adults begin for those with income at 150% of the federal poverty level, MassHealth determined that the appellant continued to be eligible for CommonHealth, but no longer had a premium due.

The appellant did not challenge the gross income information presented by MassHealth or the premium amount due prior to the decision on appeal. The appellant testified that she and her husband pay Medicare premiums that she felt should be considered as a deduction in calculating monthly income. The appellant testified that her daughter and grandson live with her and she supports them as their only source of income is income from the Social Security Administration. The appellant testified that she does not claim her daughter on her tax return.

Findings of Fact

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

1. In February 2023, the appellant was approved for MassHealth CommonHealth with a monthly premium of \$9.00 each month.
2. The appellant is a family group of two.

3. At the time of the February 2023 eligibility decision, the appellant's family group had a total monthly income of \$2,394.
4. After applying a regulatory 5% disregard of \$76.30, MassHealth determined that the appellant's countable income of \$2317.70 placed her at 151% of the federal poverty level.
5. In February 2023, individuals with income above 150% of the federal poverty level who had other insurance paid 60% of the full premium.
6. The full premium amount at the time of the February 2023 decision was \$15.
7. Sixty percent of \$15 is \$9, which is the amount MassHealth determined was the premium due.
8. The appellant did not pay a premium of \$9 in June, July or August 2023.
9. MassHealth closed the appellant's case.
10. The appellant paid the premium balance and her coverage was reinstated with no gap in coverage.
11. In October 2023, MassHealth received information about the appellant's income that included, \$1,337 in Social Security benefits for the appellant and \$1,074 in Social Security benefits for the appellant's husband.
12. A total gross monthly income of \$2,411, and the regulatory 5% disregard of \$82.20 provided the appellant with countable income of \$2,328.80 and placed the appellant at 141.61% of the federal poverty level.
13. In October 2023, MassHealth determined that the appellant continued to be eligible for CommonHealth and no longer had a premium due.

Analysis and Conclusions of Law

MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits. (130 CMR 501.003(A)). MassHealth offers several coverage types. (130 CMR 501.003(B)). The coverage type for which an individual is eligible is based on their income and circumstances. (130 CMR 515.003(B)).

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001,

the MassHealth coverage types are as follows:

- (1) MassHealth Standard – for people who are pregnant, 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 (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): Lawfully Present Immigrants, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-in and Buy-in) – for certain Medicare beneficiaries

As a disabled adult, the appellant meets the categorical requirements for both MassHealth Standard and MassHealth CommonHealth. (130 CMR 505.001). However, both programs also have financial standards. (130 CMR 505.001).

The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001).

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. MassHealth determines household composition through the Modified Adjusted Gross Income (MAGI) composition rules and the MassHealth Disabled Household composition rules. (130 CMR 506.002(A)). The appellant is a disabled adult. Therefore, her eligibility is determined through the MassHealth Disabled Household composition rules which state that the household consists of:

- (1) the individual;
- (2) the individual's spouse if living with him or her;
- (3) the individual's natural, adopted, and stepchildren younger than 19 years old if living with him or her; and
- (4) if any woman described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children. (130 CMR 506.002(C)).

Based on testimony and evidence presented at hearing, the appellant's household consists of herself and her spouse. (130 CMR 506.002(B)(3)). The appellant did not provide testimony or

evidence of having a child younger than 19 years old living with her. The appellant testified that her daughter and grandson live with her but did not provide the age of her daughter and testified that she does not claim her daughter on a tax return.

Pursuant to 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). (130 CMR 506.003). The appellant has only unearned income from the Social Security Administration. (130 CMR 506.003(B)).

MassHealth allows the following 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 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. (130 CMR 506.003(D)).

The appellant did not present evidence of any of these deductions for MassHealth to consider. (130 CMR 506.003(D)). The appellant's request that the agency consider a deduction for Medicare premiums is not one that is considered in determining eligibility for MassHealth.

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. (130 CMR 506.007). Different households may exist within a single family, dependent on the family members' familial and tax relationships to each other. (130 CMR 506.007). As stated above, the appellant's household meets the definition of a MassHealth Disabled Adult household. (130 CMR 506.002). The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth Disabled Adult households. (130 CMR 506.007). Countable 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). (130 CMR 506.007). Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007).

In determining monthly income, MassHealth averages weekly income by 4.333. (130 CMR 506.007(A)). Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual

under the coverage type with the highest income standard. (130 CMR 506.007(A)). MassHealth correctly calculated the appellant's household income in determining eligibility. (130 CMR 506.007(A)). The income reported by MassHealth of \$2,411 each month with a disregard of \$82.20 results in countable income of \$2,328.80 which exceeds 133% of the federal poverty level for a family group of two [\$2,186] making the appellant ineligible for MassHealth Standard. (130 CMR 505.002(E)(1)(b)). The decision made by MassHealth regarding eligibility for MassHealth Standard was correct. The information presented by MassHealth regarding an eligibility decision made in February 2023, with a premium of \$9 indicates that the appellant has not been eligible for MassHealth Standard for at least one year.

Pursuant to 130 CMR 505.004, to qualify for MassHealth CommonHealth, a disabled adult must meet certain requirements. If the disabled adult is working, he or she must meet the following requirements:

- (1) be aged 21 through 64 (For those aged 65 and older, see 130 CMR 519.012.);
- (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 MBR 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;
- (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).

Pursuant to 130 CMR 505.004, if the disabled adult is not working, he or she must meet the following requirements to qualify for MassHealth CommonHealth:

- (1) be aged 21 through 64;
- (2) be permanently and totally disabled, as defined in 130 CMR 501.001;
- (3) be ineligible for MassHealth Standard;
- (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)
 - (a) meet a one-time-only deductible in accordance with 130 CMR 506.009; or
 - (b) have modified adjusted gross income of the MassHealth Disabled Adult Household that is less than or equal to 200 percent of the federal poverty level and provide verification that they are HIV positive; and
- (6) comply with 130 CMR 505.004(J).

MassHealth determined the appellant eligible for CommonHealth. This decision was correct based on evidence presented by both parties. (130 CMR 505.004).

Both parties testified that the appellant receives Medicare. Pursuant to 130 CMR 505.004(L)(1), MassHealth pays the cost of the Medicare Part B Premium on behalf of members who meet the requirements of 130 CMR 505.004 and who have modified adjusted gross income of the MassHealth Disabled Adult household that is less than 135% of the FPL. The appellant's income is over 135% of the federal poverty level. Therefore, she does not qualify for Buy-In coverage. (130 CMR 505.004(L)).

MassHealth's February 2023 decision regarding eligibility for CommonHealth with a monthly premium of \$9 was also correct. Although that decision is beyond the scope of this appeal, as it was made in February 2023 and the appellant filed this appeal well beyond the regulatory 60-day deadline for filing an appeal and the 120 period for filing an appeal for the agency's failure to act, it is being addressed as there was an issue of a cancellation of coverage due to nonpayment of premiums for June 2023, July 2023 and August 2023. (130 CMR 610.015). MassHealth based the calculation of a premium on a total monthly income of \$2,394. After applying a regulatory 5% disregard of \$76.30, MassHealth determined that the appellant's countable income of \$2,317.70 placed her at 151% of the federal poverty level. In February 2023, individuals with income above 150% of the federal poverty level who had other insurance paid 60% of the full premium. (130 CMR 506.011). The full premium amount at the time of the February 2023 decision was \$15. (130 CMR 506.011). Sixty percent of \$15 is \$9 which is the amount MassHealth determined was due. That decision was correct.

The appellant did not dispute the fact that she did not pay premiums of \$9 in June, July or August 2023. Pursuant to 130 CMR 506.011(D)(1), if MassHealth has billed a member for a premium payment, and the member does not pay the entire amount billed within 60 days of the date on the bill, the member's eligibility for benefits is terminated. (130 CMR 506.011(D)(1)). The member will be sent a notice of termination before the date of termination. (130 CMR 501.011(D)(1)). The member's eligibility will not be terminated if, before the date of termination, the member

- (a) pays all delinquent amounts that have been billed;
- (b) establishes a payment plan and agrees to pay the current premium being assessed and the payment-plan-arrangement amount;
- (c) is eligible for a nonpremium coverage type;
- (d) is eligible for a MassHealth coverage type that requires a premium payment and the delinquent balance is from a CMSP benefit; or
- (e) requests a waiver of past-due premiums as described in 130 CMR 506.011(G). (130 CMR 506.011(D)(1)).

MassHealth closed the appellant's case. Since that time, the appellant paid the premiums and her coverage was reinstated. As noted above, both MassHealth representatives at hearing confirmed that there was no gap in coverage. This decision was also correct and the appellant did not present evidence or testimony to dispute the decision.

Currently, the appellant is not paying a premium for CommonHealth. As noted above, a premium is calculated for those with income starting at 150% of the federal poverty level. As the appellant's income is not at that level at this time, MassHealth was correct in not calculating a premium.

The eligibility decisions made by MassHealth were correct.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616