

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2312525
Decision Date:	3/4/2024	Hearing Date:	01/05/2024
Hearing Officer:	Christine Therrien	Record Open to:	01/17/2024

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Kristine Angelari, Tewksbury
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:	Approved	Issue:	Premium Billing; Hardship Waiver
Decision Date:	3/4/2024	Hearing Date:	01/05/2024
MassHealth's Reps.:	Kristine Angelari, Karishma Raja	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center Telephonic		

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 11/14/23, MassHealth denied the appellant's application for a hardship waiver of Family Assistance premium because MassHealth determined that the appellant did not meet the rules of an extreme financial hardship outlined in the regulations. (130 CMR 506.011(G) and Exhibit 1). The appellant filed this appeal timely on 12/1/23. (130 CMR 610.015(B) and Exhibit 2). Denial of a hardship waiver is valid grounds for appeal (see 130 CMR 610.032). The record was left open until 1/17/24 for additional information from both MassHealth and the appellant. (Exhibit 6).

Action Taken by MassHealth

MassHealth denied the appellant's application for a Hardship Waiver of her Family Assistance premium.

Issue

The appeal issue is whether MassHealth was correct, according to 130 CMR 506.011(G), in determining that the appellant failed to meet the rules of extreme financial hardship.

Summary of Evidence

The MassHealth representative testified that the appellant lives in a household of six consisting of his spouse and four children. The MassHealth representative stated that the appellant's household income is 205.52% of the federal poverty level and the four children qualify for MassHealth Family Assistance. Three children were approved beginning September 2023 with a premium of \$60 month; the previous monthly premium was \$84 per month. (Exhibit 5).¹ The appellant was terminated from MassHealth Family Assistance because of an outstanding balance from June through September 2023 of \$312. On 12/1/23, the appellant paid the outstanding balance. On 11/28/23, MassHealth approved the appellant's newly born fourth child for Family Assistance with a \$20 premium for the month of December. On 12/5/23, MassHealth approved all four children for the Family Assistance plan with a premium of \$60 monthly beginning January 2024. (Exhibit 5).² As of the date of the appeal hearing, the appellant had not paid the \$20 premium for December.

The Premium Billing representative testified that Premium Billing received a hardship waiver request in October 2023. The Premium Billing representative testified that a denial notice was issued on 11/14/23 because the appellant did not "meet the rules of extreme financial hardship. (130 CMR 506.011(F))." The Premium Billing representative testified that the appellant did not show that he was homeless or 30 days behind on his rent or mortgage, had his utilities shut off, had medical expenses that were more than 7.5% of his income, or had a significant, unavoidable increase in essential expenses within the last six months.

The appellant testified that he requested the hardship waiver of the \$60 monthly premiums for his children because his child's free pre-school offered through the town where the family lives was no longer a full-day program and had switched to just a morning program. The appellant testified that since he and his spouse work outside the home, they require full day care for their children, and were forced to pay for care that was significantly more expensive than expected. With the appellant's hardship waiver application, he submitted a bill for pre-school tuition dated 6/16/23 for \$5,370. The record was left open for the appellant to provide additional proof of the pre-school time changes.

The appellant submitted emails and a letter from the town pre-school principal showing that in

¹ Previously approved for family of 5 at 256.15% of the FPL beginning October 2022 with \$84/month premium, then family of 5 at \$242.29% FPL with a \$60/month premium beginning September 2023.

² \$20 per child (\$60 maximum per family group).

2021, when their older child attended the same town pre-school, the pre-school times for full day were 8:30-2:30 and half day were 8:30-11:00.³ The appellant submitted emails from May 2023, between himself and the same school administrators, indicating that the 3 year old's class is now from 8:45-12:00 and there is no full day program for 3 year-olds. (Exhibit 8).⁴

The Premium Billing representative testified that MassHealth did not consider the reason the appellant supplied as a qualifying hardship under the hardship waiver program. The record was left open so the Premium Billing representative could submit the criteria MassHealth uses to establish a hardship under the hardship waiver program. The *Hardship Waiver Operating Guide*, updated by MassHealth on 1/23/23, provides a list of acceptable documentation to show a "[l]arge, unexpected increase in basic expenses within the last 6 months. Examples include but are not limited to: Replacement of boiler, Repair of damage related to burst water pipe, House fire, Major car repairs, Large Homeowners' Association (HOA) special assessment." (Exhibit 7).

Findings of Fact

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

1. The appellant lives in a household of six consisting of his spouse and four children.
2. The appellant's household income is 205.52% of the federal poverty level and the four children qualify for MassHealth Family Assistance with a premium of \$60 monthly beginning January 2024.
3. Three children were approved beginning September 2023 with a premium of \$60 monthly (the prior monthly premium was \$84 per month).
4. The appellant was terminated from MassHealth Family Assistance because of an outstanding balance from June through Sept. 2023 of \$312.
5. On 12/1/23, the appellant paid the outstanding balance.
6. On 11/28/23, MassHealth approved the appellant's newly born fourth child with a \$20 premium for the month of December.
7. On 12/5/23, MassHealth approved all four children for the Family Assistance plan with a premium of \$60 monthly beginning January 2024.

³ The appellant submitted the child's birth certificate showing the child was 3 years old at the start of the 2021-2022 school year.

⁴ This is a free and federally-funded Head Start Program for low-income families.

8. As of the date of the appeal hearing the appellant has an outstanding balance of \$20 for the December premium.
9. Premium Billing received a hardship waiver request from the appellant in October 2023.
10. A denial notice for the hardship waiver was issued on 11/14/23 because the appellant did not “meet the rules of extreme financial hardship. (130 CMR 506.011(G)).”
11. The Hardship Waiver criteria state that the member must show that they were: homeless or 30 days behind on his rent or mortgage, had their utilities shut off, had medical expenses that were more than 7.5% of their income, or had a significant, unavoidable increase in essential expenses within the last six months.
12. The appellant testified that he requested the hardship waiver of the \$60 premiums for his children because his child’s free pre-school offered through the public school system in his town was no longer a full day program, and had switched to just a morning program.
13. The appellant and his spouse both have jobs outside the home.
14. The appellant submitted a bill for pre-school tuition dated 6/16/23 for \$5,370.
15. In 2021, when the appellant’s older child attended the same school run by the public school district, the pre-school program for their 3 year-old was both full day from 8:30 to 2:30, and half day 8:30 to 11:00.
16. In 2023, the same public school pre-school program for a 3 year-old was half day from 8:45 to 12:00, and there was no full day program for a 3 year-old.
17. The *Hardship Waiver Operating Guide*, updated by MassHealth on 1/23/23, provides a list of acceptable documentation to show a “[l]arge, unexpected increase in basic expenses within the last 6 months. Examples include but are not limited to: Replacement of boiler, Repair of damage related to burst water pipe, House fire, Major car repairs, Large Homeowners’ Association (HOA) special assessment.”

Analysis and Conclusions of Law

MassHealth charges a monthly premium to members who have income at or above 150% of the federal poverty level (FPL) for MassHealth Standard, CommonHealth, or Family Assistance. (130 CMR 506.011).

MassHealth Family Assistance premium amounts are calculated based on a member's household

modified adjusted gross income (MAGI) and their household size. (130 CMR 506.011(B)(3)).

Members with difficulty paying their premiums may submit a Hardship Waiver. 130 CMR 506.011(G) Waiver or Reduction of Premiums for Undue Financial Hardship outlines the criteria to show financial hardship.

(1) Undue financial hardship means that the member has shown to the satisfaction of the MassHealth agency that at the time the premium was or will be charged, or when the individual is seeking to reactivate benefits, the member

(a) is homeless, or is more than 30 days in arrears in rent or mortgage payments, or has received a current eviction or foreclosure notice;

(b) has a current shut-off notice, or has been shut off, or has a current refusal to deliver essential utilities (gas, electric, oil, water, or telephone);

(c) has medical and/or dental expenses, totaling more than 7.5% of the family group's gross annual income, that are not subject to payment by the Health Safety Net, and have not been paid by a third-party insurance, including MassHealth (in this case "medical and dental expenses" means any outstanding medical or dental services debt that is currently owed by the family group or any medical or dental expenses paid by the family group within the 12 months prior to the date of application for a waiver, regardless of the date of service);

(d) has experienced a significant, unavoidable increase in essential expenses within the last six months;

(e) 1. is a MassHealth CommonHealth member who has accessed available third-party insurance or has no third-party insurance; and

2. the total monthly premium charged for MassHealth CommonHealth will cause extreme financial hardship the family, such that the paying of premiums could cause the family difficulty in paying for housing, food, utilities, transportation, other essential expenses, or would otherwise materially interfere with MassHealth's goal of providing affordable health insurance to low-income persons; or

(f) has suffered within the six months prior to the date of application for a waiver, or is likely to suffer in the six months following such date, economic hardship because of a state or federally declared disaster or public health emergency.

The *Hardship Waiver Operating Guide*, updated by MassHealth on 1/23/23, provides a list of acceptable documentation to show a "[l]arge, unexpected increase in basic expenses within the last 6 months. Examples include but are not limited to: Replacement of boiler, Repair of damage related to burst water pipe, House fire, Major car repairs, Large Homeowners' Association (HOA) special assessment."

The appellant was notified that the free pre-school program he had used in the past and planned to use again for his 3-year-old would no longer be full day and would only offer childcare for 3.5 hours each morning. The appellant and his spouse both work. The cost of childcare is an essential expense for any working parent/caregiver. The expense of the appellant's childcare significantly

and unexpectedly increased from \$0 to \$5,370 within the 6 months prior to the appellant's application for the Hardship Waiver.

For this reason, the appeal is approved.

Order for MassHealth

Rescind Hardship Waiver denial dated 11/14/23 and approve the appellant's Hardship Waiver application dated 9/5/23. The hardship approval shall last one year; the appellant must reapply for a hardship, if he believes it is still needed, on or before 9/5/2024.

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.

Christine Therrien
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center
cc: Gretchen Whitworth, premium billing manager