

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2312990
Decision Date:	1/29/2024	Hearing Date:	1/12/2024
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Tenzin Sungrab, Charlestown



*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:	Under 65, CommonHealth premium
Decision Date:	1/29/2024	Hearing Date:	1/12/2024
MassHealth's Rep.:	Tenzin Sungrab	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown (virtual)	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

By notice dated November 20, 2023, MassHealth downgraded Appellant's coverage from MassHealth Standard to MassHealth's CommonHealth benefit with a monthly premium of \$114.40. Exhibit 1. Appellant filed this timely appeal on December 11, 2023. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded Appellant's coverage from MassHealth Standard to MassHealth's CommonHealth benefit with a monthly premium of \$114.40.

Issue

The appeal issue is whether MassHealth correctly calculated the CommonHealth Premium.

Summary of Evidence

The MassHealth representative appeared at the virtual hearing and testified as follows. Appellant is in a household of two with her minor child. Appellant's child is disabled and was deemed eligible for Family Assistance in 2017. In April 2019, Appellant's child was eligible for MassHealth Standard due to qualifying household income. That determination remained in place during the Covid-19 public health emergency protection.

After the protection was lifted, Appellant's eligibility was redetermined. Appellant's annual income is \$74,113, which is 370.83% of the federal poverty level (FPL). On MassHealth downgraded Appellant's coverage from MassHealth Standard to MassHealth's CommonHealth benefit with a monthly premium of \$114.40. Exhibit 1. The premium was calculated based on regulation and Appellant being enrolled in employer sponsored health insurance (ESI). The MassHealth representative advised Appellant that she may qualify for Premium Assistance to help her with payment of the ESI or CommonHealth premium.

Appellant appeared at the virtual hearing and testified as follows. Appellant did not dispute MassHealth's income determination and understood the redetermination of eligibility. Appellant's only dispute is with the premium calculation, which was high for secondary insurance. Appellant's child has diabetes which is expensive to treat and maintain. Appellant is a single parent. Appellant's parent was concerned that she would have to wait until the open enrollment period to apply for Premium Assistance, but the MassHealth representative testified that the application can be done at any time.

Findings of Fact

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

1. Appellant is in a household of two with a disabled child.
2. Appellant's annual income is \$74,113.
3. In 2023, the monthly FPL for a household of two was \$1,644 and yearly FPL was \$19,728; 150% of the FPL was \$2,465 monthly and \$29,580 yearly.

Analysis and Conclusions of Law

At issue here is the calculation of Appellant's income and the premium assessed. Appellant did not dispute the income numbers used by MassHealth in making its calculation but requested clarity of how it was determined.

MassHealth regulations at 130 CMR 505.000 *et seq.* explain 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:

- (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 – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(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.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses, for the amount and populations allowed under federal law;
- (5) one-half self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);
- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and
- (12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law

115-97 for as long as those deductions are in effect under federal law.

To be eligible for MassHealth Standard as a child, Appellant's monthly income would have to be less than or equal to 150% of the FPL. 130 CMR 505.002(B)(2)(a). The undisputed evidence in the record demonstrates that Appellant's household gross yearly income totaled \$74,113. MassHealth had determined that Appellant's MAGI income was 370.83% of the FPL. Accordingly, Appellant's household income is too high to be eligible for MassHealth Standard.

As a disabled child, Appellant's child is eligible for MassHealth CommonHealth. 130 CMR 505.004(G). According to 130 CMR 505.004(I), children eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). For children above 300% of the FPL, MassHealth uses the following formula:

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

130 CMR 506.011(B)(2)(b). Members who have health insurance to which MassHealth does not contribute may receive a lower supplemental premium, as follows.

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

130 CMR 506.011(B)(2)(c).

According to the chart, at 370.83% of the FPL, Appellant's full CommonHealth premium would be \$176 per month. Appellant has other insurance and is entitled to only pay 65% of the supplemental premium, which would be \$114.40. 130 CMR 506.011(B)(2)(c). As MassHealth calculated the premium correctly, 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129