

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2400771
Decision Date:	02/08/2024	Hearing Date:	02/07/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearances for MassHealth:

Harry Giang, Nga Tran & Carmen Fabery



*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:	Eligibility – CommonHealth Premium
Decision Date:	02/08/2024	Hearing Date:	02/07/2024
MassHealth's Reps.:	Harry Giang, Nga Tran & Carmen Favery	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	Aid Pending:	Yes

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 January 4, 2024, MassHealth notified the appellant that they are changing her health benefits from MassHealth Standard to MassHealth CommonHealth as of December 25, 2023 due to a change in circumstances. (130 CMR 505.000; Exhibit 1). MassHealth determined that the appellant would have to pay a premium of \$124.80 each month starting in February 2024. (130 CMR 506.011; Exhibit 1). The appellant filed an appeal in a timely manner on January 16, 2024. (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 as of December 25, 2023, and would be required to pay a monthly premium of \$124.80 each month beginning February 2024.

Issue

Whether MassHealth was correct in determining the appellant's eligibility for CommonHealth and the calculation of a premium in the amount of \$124.80 pursuant to 130 CMR 505.004 and 130 CMR 506.011.

Summary of Evidence

All parties appeared by telephone. Representatives from the Charlestown MassHealth Enrollment Center and Premium Billing Unit (PBU) appeared to represent the agency. Documents submitted by the PBU were incorporated into the hearing record as Exhibit 4. Documents submitted by the appellant were incorporated into the hearing record as Exhibit 5.

The appellant was approved for MassHealth CommonHealth as of December 25, 2023 with a monthly premium of \$124.80 beginning February 2024. The appellant is a family group of one. The appellant has been deemed disabled by the Social Security Administration. (Exhibit 5). At the time of the eligibility decision on appeal, the agency determined that the appellant's income was at 391.57% of the federal poverty level.

The MassHealth representative at hearing did not have information on the source or amount of income for which the agency based their decision. The MassHealth representative testified that the agency received a federal poverty level calculation through a “data match”. According to the MassHealth representative at hearing, the data match produced only a federal poverty level figure for the agency to utilize in determining eligibility and calculating a premium. As the MassHealth representative at hearing could not provide information other than the final calculation made through a “data match”, a supervisor came to the hearing. The supervisor also stated that the agency could only obtain the federal poverty level figure and could not account for the source or amount of income utilized in determining eligibility.

Utilizing the federal poverty level presented by MassHealth and a regulatory premium formula where a premium starts at \$40 for individuals with income over 200% of the federal poverty level and adding \$8 for each additional 10%, an individual with income at 391.57% of the federal poverty level would have a monthly premium of \$192 [$\$40 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 = \192]. The agency also utilizes a supplemental premium formula for individuals who have other insurance. Individuals with income above 200% of the federal poverty level to 400% of the federal poverty level pay 65% of the full premium. This calculation would result in a premium of \$124.80 [$192 \times .65 = 124.80$] which is the amount listed on the notice. As noted above, neither MassHealth representative at hearing could explain the basis for any calculation other than stating that the system generated figures for the agency to use in determining eligibility.

The records presented by the appellant include a February 2022 notice showing income of \$355

each month from a private disability benefit. (Exhibit 5). The appellant presented another record showing this benefit along with a benefit amount of \$1,888 from the Social Security Administration. (Exhibit 5). The appellant noted in the records presented, as well as at hearing, that she no longer receives the \$355 each month from the private disability benefit. (Testimony; Exhibit 5). The \$1,888 from the Social Security Administration and \$355 from the private disability benefit result in a monthly income of \$2,243. Applying the regulatory 5% disregard of \$60.75 would result in a monthly income of \$2,182.25. This monthly income would place the appellant at 179.60% of the federal poverty level.

The records presented by the appellant and testimony at hearing show receipt of monthly income from the Social Security Administration in the amount of \$2,004 as of December 2023. The appellant and representative testified that this was the appellant's only source of income. Utilizing the eligibility figures table and applying the regulatory 5% disregard of \$60.75, the appellant's countable income of \$1,943.25 places the appellant at 160% of the federal poverty level [$\$2,004 - \$60.75 = \$1,943.25$] [$\$1,943.25 \div \$1,215 = 160\%$]. Neither party presented evidence of the appellant having other insurance. A notice from the Social Security Administration presented by the appellant shows that she does not have a deduction for Medicare in her monthly benefit amount. However, in utilizing the figures presented on the notice on appeal, it appears that the appellant may have had other insurance at the time of the initial decision.

Findings of Fact

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

1. The appellant was approved for MassHealth CommonHealth as of December 25, 2023 with a monthly premium of \$124.80 beginning February 2024.
2. The appellant is a family group of one.
3. The appellant is a disabled adult.
4. At the time of the eligibility decision the agency determined that the appellant's income was at 391.57% of the federal poverty level.
5. No source or amount of income was presented by the agency.
6. Utilizing the federal poverty level guidelines and a regulatory premium formula where a premium starts at \$40 for individuals with income over 200% of the federal poverty level and adding \$8 for each additional 10%, the appellant would have a monthly premium of \$192 [$\$40 + \$8 = \192].
7. The agency utilizes a supplemental premium formula for individuals who have other

insurance.

8. Individuals with income above 200% of the federal poverty level to 400% of the federal poverty level pay 65% of the full premium.
9. This calculation would result in a premium of \$124.80 [$192 \times .65 = 124.80$] which is the amount listed on the notice.
10. As of January 2024, the appellant receives \$2,004 from the Social Security Administration.
11. The appellant has no other source of income.
12. The appellant does not have a deduction for Medicare in her monthly benefit amount from the Social Security Administration.
13. Neither party presented evidence of the appellant having other insurance.

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)). Information presented by the appellant regarding the receipt of disability benefits from the Social Security Administration shows that 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 alone. (130 CMR 506.002(B)(3)).

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)).

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 this case, the income from the appellant alone forms the basis for establishing eligibility for MassHealth.

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 incorrectly calculated the appellant's household income in determining eligibility. (130 CMR 506.007(A)). At hearing, MassHealth did not report any income for which they based their decision. The two representatives at hearing stated that they could only testify to the final calculation of how the appellant's income compared to the federal poverty level of \$1,215. Neither MassHealth representative testified as to how the agency calculates income or the actual federal poverty level figures for the date of the decision only stating that they rely on a data source and system to determine eligibility.

The income reported by the appellant at hearing of \$2,004 and the application of the 5% disregard provides countable income of \$1,943.25 and places the appellant at 160% of the federal poverty level [$\$2,004 - \$60.75 = \$1,943.25$] [$\$1,943.25 \div \$1,215 = 160\%$]. This countable income exceeds 133% of the federal poverty level for a family group of one [$\$1,616$] 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.

Under the published regulations at 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).

Under the published regulations at 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).

In December 2023, to streamline eligibility and remove additional barriers to qualify for MassHealth, MassHealth updated their system to allow adult MassHealth members with disabilities, who have an income above 150% of the FPL and are 19–20 years old, or who have an income above 133% of the FPL and are 21–64 years old, to be eligible to receive MassHealth CommonHealth benefits without having to meet a one-time deductible or be employed at least 40 hours per month. (MassHealth Eligibility Operations Memo (EOM) 23-28). At the time of the eligibility decision on appeal, the appellant did not have to meet a deductible or show evidence of employment to qualify for MassHealth CommonHealth. (130 CMR 505.004; MassHealth EOM 23-28).

The records presented by the appellant and testimony at hearing show receipt of monthly income from the Social Security Administration in the amount of \$2,004 as of December 2023. The

appellant and appeal representative testified that this was the appellant's only source of income. Utilizing the eligibility figures table and applying the regulatory 5% disregard of \$60.75, the appellant's countable income of \$1,943.25 places the appellant at 160% of the federal poverty level [$\$2,004 - \$60.75 = \$1,943.25$] [$\$1,943.25 \div \$1,215 = 160\%$]. Neither party presented evidence of the appellant having other insurance. A notice from the Social Security Administration presented by the appellant shows that the appellant does not have a deduction for Medicare in her monthly benefit amount. However, in utilizing the figures presented on the notice on appeal, it appears that the appellant may have had other insurance at the time of the initial decision.

Pursuant to 130 CMR 506.011, MassHealth may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150% of the federal poverty level (FPL), as provided in 130 CMR 506.011. MassHealth premiums amount are calculated based on a member's household modified adjusted gross income (MAGI) and their household size as described in 130 CMR 506.002 and 130 CMR 506.003 and the premium billing family group (PBF) rules as described in 130 CMR 506.011(A). (130 CMR 506.011). Certain members are exempt from paying premiums, in accordance with 130 CMR 506.011(J). (130 CMR 506.011). Neither party presented evidence of the appellant being categorized as a member who is exempt from paying a premium.

Pursuant to 130 CMR 506.011(B)(2)(b), the full premium formula for adults with household income above 150% of the FPL is provided as follows. 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. (130 CMR 506.011(B)(2)(b)).

CommonHealth Full Premium Formula		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150% FPL start at \$15	Add \$5 for each additional 10% FPL	\$15 - \$35
Above 200% FPL start at \$40	Add \$8 for each additional 10% FPL	\$40 - \$192
Above 400% FPL start at \$202	Add \$10 for each additional 10% FPL	\$202 - \$392
Above 600% FPL start at \$404	Add \$12 for each additional 10% FPL	\$404 - \$63
Above 800% FPL start at \$646	Add \$14 for each additional 10% FPL	\$646 - \$912
Above 1,000% FPL start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

Utilizing the information presented by the appellant with monthly income that places her at 160% of the federal poverty level, she should pay a premium of \$20 each month. (130 CMR 506.011(B)(2)(b)).

A lower supplemental premium is charged to members who have health insurance to which MassHealth does not contribute. (130 CMR 506.011(B)(2)(c)). The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided 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 1,000%	80% of full premium
Above 1,000%	85% of full premium

The records and testimony presented by both parties do not clearly indicate whether the appellant has health insurance to which MassHealth does not contribute. If the appellant does have such insurance, the appellant should only be required to pay a premium amount under the supplemental premium formula rather than a full premium. If the appellant is able to present evidence to MassHealth of having another insurance, her premium would be \$13 based on the income information presented at hearing.

The decision made by MassHealth was not correct.

This appeal is approved.

Order for MassHealth

Release the appellant's aid pending and determine the appellant eligible for CommonHealth with a monthly premium of \$20 beginning February 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

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

MassHealth Representative: Maximus Premium Billing, Attn: Gretchen Whitworth, 200 Newport Avenue, 2nd Floor, Quincy, MA 02171