

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401173
Decision Date:	4/24/2024	Hearing Date:	2/29/2024
Hearing Officer:	Patrick Grogan	Record Open to:	3/22/2024

Appearance for Appellant:



Appearance for MassHealth:

Shanell Santiago, Tewksbury MEC

Interpreter:



*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 under 65, MassHealth Standard, MassHealth CommonHealth
Decision Date:	4/24/2024	Hearing Date:	2/29/2024
MassHealth's Rep.:	Shanell Santiago	Appellant's Rep.:	
Hearing Location:	Remote (Tel)	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 January 4, 2024, MassHealth determined that the Appellant is eligible for MassHealth CommonHealth with an attributed monthly premium of \$40 beginning February 2024 (see 130 CMR 505.002, 130 CMR 505.004, 130 CMR 506.011 and Exhibit 1). The Appellant filed this appeal in a timely manner on January 23, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Reduction of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the Appellant qualifies for MassHealth CommonHealth and owes a monthly premium of \$40, starting in February of 2024.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002, 130 CMR 505.004 and 130 CMR 506.011(B)(2)(a), in determining that the Appellant qualifies for

MassHealth CommonHealth and owes a monthly premium of \$40.

Summary of Evidence

The Appellant is a MassHealth member between the ages of one and eighteen years of age who was represented at Hearing by her mother. The Appellant seeks reinstatement to MassHealth Standard. (Exhibit 2) MassHealth approved the Appellant for MassHealth CommonHealth with a premium assessed for the Appellant and her sister in the amount of \$20 per child, for a total of \$40. (Exhibit 1) From this determination, the Appellant appeals.

A Portuguese interpreter appeared at the Hearing. After MassHealth and the Appellant's mother were sworn in, it was determined that the Appellant's mother did not require an interpreter. The Appellant's mother stated that Appellant's father speaks Portuguese, however the Appellant's mother speaks English. (Testimony) The Appellant's mother stated the Appellant's father was not participating in the Hearing. (Testimony) The Appellant's mother agreed that the Portuguese interpreter was not required for the February 29, 2024 Hearing for the instant Appeal. (Testimony). The Portuguese interpreter was released from the Hearing, and the Hearing continued.

MassHealth testified that the Appellant's household is a family of 4, with a monthly income calculated at 253.61% of the Federal Poverty Level (FPL). (Testimony, Exhibit 1). MassHealth explained that MassHealth then adjusted the Modified Adjusted Gross Income (MAGI) to calculate the Appellant's attributed income to 248.61%¹. (Testimony, Exhibit 1). MassHealth stated that based on this calculation, the Appellant is over income for MassHealth Standard, but qualified for MassHealth CommonHealth. (Testimony).

In response to questions, MassHealth testified that the Appellant's father's income was reported as \$6,717.15 monthly. (Testimony). In response to questions, MassHealth testified that the Appellant's mother's income was calculated at a loss of \$376 monthly². (Testimony)

The Appellant, through her mother, testified that the Appellant has profound disabilities. (Testimony) The Appellant's mother stated that she was concerned that the change from MassHealth Standard to MassHealth CommonHealth would negatively impact her children. (Testimony). The Appellant's mother testified that both her children were in diapers, required PCA services, and received in home health care services. (Testimony) The Appellant's mother stated

¹ Pursuant to 130 CMR 506.00(A)(3) "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."

² Utilizing these figures, the Appellant's income is calculated at \$6340.15/month. 5% of the current FPL for a family of 4 is \$125. The Appellant's modified countable income calculates to \$6215.15. This equates to 248.606% of the current FPL.

her concern regarding services available through MassHealth CommonHealth and the effect of a change of health care plan in pausing any of the services the children currently receive. (Testimony)

Regarding the calculated income, the Appellant's mother confirmed the accuracy of the household income figures utilized by MassHealth. (Testimony). The Appellant's mother testified that they have numerous bills including a mortgage, car insurance, student loan interest, among other monthly expenses. (Testimony). The Appellant's mother testified that the monthly expenses take away from the income available to the family (Testimony).

MassHealth responded that the only monthly expense listed by the mother that would qualify as a deduction was student loan interest. (Testimony, 130 CMR 506.003(D)). At the Appellant's request, the Record was left open until March 15, 2024 for the Appellant to furnish to MassHealth the student loan interest she pays. (Testimony, Exhibit 5) The Record was left open further for MassHealth to calculate the deduction to ascertain whether it would allow the Appellant's income to qualify for MassHealth Standard. (Testimony, Exhibit 5) The Appellant's mother inquired as to the status of the Appellant's coverage during the pendency of this appeal. MassHealth confirmed that the Appellant's coverage changed to MassHealth CommonHealth effective December 25, 2023. (Testimony, Exhibit 1)

On March 20, 2024, MassHealth responded that no additional information was submitted by the Appellant at the expiration of the Record Open period for the Appellant, March 15, 2024. (Exhibit 6)

Findings of Fact

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

1. The Appellant is a child between the ages of one through eighteen. (Testimony, Exhibit 1)
2. The Appellant has a household size of four. (Testimony, Exhibit 1)
3. The Appellant's income calculated to \$6340.15/month. (Testimony)
4. \$6340.15 calculates to 253.606% of the FPL, which MassHealth has rounded up to 253.61% of the FPL.
5. 5% of the current FPL for a family of 4 is \$125. The Appellant's modified countable income calculates to \$6215.15. This equates to 248.606% of the current FPL.
6. For 2023, for a household of 4, 150% of the Federal Poverty Level is a monthly income of

\$3,750, annual income of \$45,000.

7. For 2023, for a household of 4, 250% of the Federal Poverty Level is a monthly income of \$6,250, annual income of \$75,000.

Analysis and Conclusions of Law

The Appellant, through her Appeal Representative, mother, is seeking reinstatement to MassHealth Standard. 130 CMR 505.002(B)(2) defines the categorical requirement for eligibility of MassHealth Standard for children between the ages of one and eighteen:

505.002: MassHealth Standard

(B) Eligibility Requirements for Children and Young Adults. Children and young adults may establish eligibility for MassHealth Standard coverage subject to the requirements described in 130 CMR 505.002(B).

(2) Children One through 18 Years Old.

(a) A child one through 18 years old is eligible if

1. the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 150% of the federal poverty level; and
2. the child is a citizen as described in 130 CMR 504.002: U.S. Citizens or a lawfully present immigrant as described in 130 CMR 504.003(A): Lawfully Present Immigrants.

(b) Eligibility for a child who is pregnant is determined under 130 CMR 505.002(D).

The Appellant's modified adjusted gross income is \$6340.15. As MassHealth testified this exceeds 150% of the federal poverty level and therefore the Appellant is not eligible for MassHealth Standard at this time. (see 130 CMR 505.002(B)(2)(a)(1))

However, MassHealth determined that the Appellant qualifies for coverage under MassHealth CommonHealth. 130 CMR 505.004 (G) defines the categorical requirement for eligibility of MassHealth CommonHealth for children under eighteen:

505.004: MassHealth CommonHealth

(G) Disabled Children Younger than 18 Years Old. Disabled children younger than 18 years old must meet the following requirements:

- (1) be permanently and totally disabled, as defined in 130 CMR 501.001: Definition of Terms;
- (2) be ineligible for MassHealth Standard; and
- (3) be a citizen as described at 130 CMR 504.002: U.S. Citizens, lawfully

present immigrant, or a nonqualified PRUCOL, as described in 130 CMR 504.003: Immigrants.

The Appellant has been determined permanently and totally disabled and as explained supra is ineligible for MassHealth Standard. MassHealth may charge a monthly premium to MassHealth CommonHealth members who have income above 150 % of the Federal Poverty Level (FPL) as codified within 130 CMR 505.004(I):

(I) MassHealth CommonHealth Premium

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). No premium is assessed during a deductible period.

As 130 CMR 505.004(I) indicates, the premium schedule is codified within 130 CMR 506.011(B)(2):

506.011: MassHealth Premiums and the Children's Medical Security Plan (CMSP) Premiums

(B) MassHealth and Children's Medical Security Plan (CMSP) Premium Formulas.

(2) The premium formulas for MassHealth CommonHealth members whose eligibility is described in 130 CMR 505.004(B): Disabled Working Adults through (G): Disabled Children Younger than 18 Years Old are as follows.

(a) The premium formula for children with MassHealth MAGI household income between 150 and 300% of the FPL is provided as follows.

CommonHealth Required Member Contribution Formula Children between 150% and 300% FPL	
% of Federal Poverty Level (FPL)	Estimated Member Share
Above 150% to 200%	\$12 per child (\$36 per PBFG maximum)
Above 200% to 250%	\$20 per child (\$60 per PBFG maximum)
Above 250% to 300%	\$28 per child (\$84 per PBFG maximum)

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

As stated above, the Appellant's countable income is \$6215.15 , which is rounded to

248.61% of the Federal Poverty Level. Accordingly, using the calculation provided by 130 CMR 506.011(B)(2), here, the Appellant's household's premium is calculated at \$40 (\$20 x 2).

Based upon the evidence presented, I find that MassHealth did not err in determining that the Appellant does not currently qualify for MassHealth Standard due to the household income. I find MassHealth did not err in determining that the Appellant does qualify for MassHealth CommonHealth, with a premium attributable. I find that MassHealth did not err in calculating the Appellant's premium at \$40/monthly, \$20 per child. I find that the Appellant, through her Appeal Representative mother, has not met her burden, by a preponderance of evidence, to show the invalidity of MassHealth's administrative determination. Accordingly, 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.

Patrick M. Grogan
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290