

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2401176
<b>Decision Date:</b>	03/01/2024	<b>Hearing Date:</b>	02/22/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Tiffany Castellanos (Charlestown MEC) &  
Carmen Fabery (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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	03/01/2024	<b>Hearing Date:</b>	02/22/2024
<b>MassHealth's Reps.:</b>	Tiffany Castellanos (Charlestown MEC) & Carmen Fabery (Premium Billing)	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<b>Aid Pending:</b>	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 5, 2024, MassHealth notified the appellant that he is approved for MassHealth CommonHealth as of December 1, 2023 and he must pay a premium of \$9.00 each month starting in February 2024. (130 CMR 505.000; Exhibit 1). The appellant filed an appeal in a timely manner on January 22, 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 is eligible for MassHealth CommonHealth as of December 1, 2023 and is required to pay a monthly premium of \$9.00 each month starting in February 2024.

### Issue

Whether MassHealth was correct in determining the appellant eligible for CommonHealth and the calculation of a premium in the amount of \$9.00 pursuant to 130 CMR 505.004 and 130 CMR

## Summary of Evidence

All parties appeared by telephone. Representatives from the Charlestown MassHealth Enrollment Center (Charlestown MEC) and 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 as of December 1, 2023 with a monthly premium of \$9.00 beginning February 2024. The appellant is a disabled adult, member of a family group of one and receives \$1,886 each month from the Social Security Administration. After applying a regulatory 5% disregard of \$60.75, the appellant's countable income of \$1,825.25 places the appellant at 150.23% of the federal poverty level [ $\$1,886 - \$60.75 = \$1,825.25$ ] [ $\$1,825.25 \div \$1,215 = 150.23\%$ ].

The representative from the Charlestown MEC testified that the appellant was eligible for MassHealth Standard in the past but his current income places him over the eligibility limits for that program. The representative from the Charlestown MEC testified that for individuals with income above 150% of the federal poverty level, MassHealth calculates a monthly premium based on the individual's monthly income. An individual with income above 150% of the federal poverty level has a premium of \$15. A lower supplemental premium is charged to members who have health insurance to which MassHealth does not contribute. Individuals with income above 150% of the federal poverty level pay 60% of the full premium. The representative from the Charlestown MEC testified that this would result in a premium of \$9.00 for the appellant [ $\$15 \times 0.6 = \$9$ ].

## 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 1, 2023 with a monthly premium of \$9.00 beginning in February 2024.
2. The appellant is a family group of one.
3. The appellant is a disabled adult.
4. The appellant receives \$1,886 each month from the Social Security Administration.
5. After applying a regulatory 5% disregard of \$60.75, the appellant's countable income of \$1,825.25 places the appellant at 150.23% of the federal poverty level [ $\$1,886 - \$60.75 = \$1,825.25$ ] [ $\$1,825.25 \div \$1,215 = 150.23\%$ ].

6. Utilizing the federal poverty level guidelines and a regulatory premium formula where a premium starts at \$15 for individuals with income over 150% of the federal poverty level, the appellant would have a monthly premium of \$15.
7. The agency utilizes a supplemental premium formula for individuals who have other insurance.
8. Individuals with income above 150% of the federal poverty level to 200% of the federal poverty level pay 60% of the full premium.
9. This calculation would result in a premium of \$9.00 [ $15 \times .60 = \$9.00$ ].

## **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 himself 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 correctly calculated the appellant's household income in determining eligibility. (130 CMR 506.007(A)).

The appellant's countable income of \$1,825.25 places the appellant at 150.23% of the federal poverty level [ $\$1,886 - \$60.75 = \$1,825.25$ ] [ $\$1,825.25 \div \$1,215 = 150.23\%$ ]. 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).

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

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 decision made by MassHealth regarding the appellant's eligibility for CommonHealth was correct.

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 (PFBG) 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)).

<b>CommonHealth Full Premium Formula</b>		
<b>Base Premium</b>	<b>Additional Premium Cost</b>	<b>Range of Monthly Premium Cost</b>
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

The appellant's income is above 150% of the federal poverty level but less than 160% of the federal poverty level resulting in a full premium of \$15 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 150% of the FPL is provided as follows:

<b>CommonHealth Supplemental Premium Formula</b>	
<b>% of Federal Poverty Level (FPL)</b>	<b>Monthly Premium Cost</b>
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 appellant has Medicare and MassHealth does not contribute to it. Therefore, in calculating a monthly premium, MassHealth utilized a supplemental premium formula. As the appellant's income is above 150% of the federal poverty level, he is required to pay 60% of the full premium which would result in a monthly premium of \$9.00 as calculated by MassHealth. This decision was also correct.

This appeal is denied as all the eligibility decisions made by MassHealth were correct.

## 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.

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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: Karishma Raja, 1 Enterprise Drive, Suite 310, Quincy, MA 02169