

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401482
Decision Date:	04/18/2024	Hearing Date:	2/28/2024
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jacob Sommer, Charlestown
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

Appeal Decision:	Denied	Issue:	Eligibility, under 65, income, premium
Decision Date:	04/18/2024	Hearing Date:	2/28/2024
MassHealth's Rep.:	Jacob Sommer, Carmen Fabery	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown (remote)	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 January 17, 2024, MassHealth approved Appellant for MassHealth's CommonHealth benefit with a monthly premium of \$18.00. Exhibit 1. Appellant filed this timely appeal on January 29, 2024. 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 approved Appellant for MassHealth's CommonHealth benefit with a monthly premium of \$18.00.

Issue

The appeal issue is whether MassHealth was correct in calculating the premium and determining that Appellant no longer qualified to have her Medicare premium reimbursed.

Summary of Evidence

Appearing at hearing were Appellant, a representative from MassHealth's eligibility unit, and a Premium Billing representative. A summary of documentation and testimony follows.

The MassHealth eligibility representative testified that at the time of hearing, Appellant's eligibility status was that she was approved for MassHealth CommonHealth based on her circumstances. Appellant is in a household of one and her monthly income is \$2,322.60 from SSDI. MassHealth determined that this is 186.16% of the federal poverty level (FPL). Previously, from July 29, 2023 to January 17, 2024, Appellant was eligible for MassHealth Standard plus Buy-In, which paid Appellant's Medicare premium. In order to qualify for this coverage, Appellant's income would have to be less than 133% of the FPL.

Appellant was approved for CommonHealth with a monthly premium of \$18.00 because her income is above 150% of the FPL. At 186.16%, Appellant's premium would be \$30. However, because she has Medicare, she only has to pay 60% of the premium.

Appellant testified that it is crucial that her insurance is sorted out due to her disability. Appellant had been receiving state emergency aid to the elderly and SNAP benefits. The MassHealth representative responded that those are not countable income. Appellant asked if her rent is deducted for purposes of eligibility. The MassHealth representative testified that monthly expenses such as rent are not factored into the eligibility determination.

Appellant expressed concern about losing her Buy-In coverage. She cannot get by without the extra funds in her deposit. Appellant mentioned that her premium was deducted from her income in January 2024 but not February 2024, which was odd. Appellant also had not received her invoice for the \$18 premium.

The MassHealth representative testified that Appellant may qualify for MassHealth's Medicare Savings Program (MSP), similar to the Buy-In. The MassHealth representative directed Appellant to the specific part of the website to find the MSP application and also offered to mail one.

Findings of Fact

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

1. Appellant is in a household of one and is under 65.
2. Appellant is disabled and receives Medicare.
3. Appellant's monthly income is \$2,322.60 from SSDI.

4. In 2024, the monthly FPL for a household of one was \$1,255; 133% of the FPL was \$1,670.

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 disabled adult, Appellant's monthly income would have to be less than or equal to 133% of the FPL. 130 CMR 505.002(E)(1)(b). Appellant's monthly income of \$2,322.60 is 186.16% of the FPL. Accordingly, Appellant's household income is too high to be eligible for MassHealth Standard.

As a disabled adult, Appellant is eligible for MassHealth CommonHealth. 130 CMR 505.004(C). According to 130 CMR 505.004(I), individuals eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). For adults above 150% 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
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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 186.16% of the FPL, Appellant's full CommonHealth premium would be \$30 per month. Appellant has other insurance and is entitled to only pay 60% of the supplemental premium, which would be \$18. 130 CMR 506.011(B)(2)(c).

As MassHealth's determination of Appellant's eligibility type and premium were correct, this appeal is denied.

Appellant is encouraged to apply for a Medicare Savings Program for assistance with payment of her Medicare premium. MassHealth offers three MSP coverage types: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualifying Individuals (QI). 130 CMR 519.010 and 519.011. MSP for QMB is available for Medicare beneficiaries who are entitled to hospital benefits under Medicare Part A and whose income is less than or equal to 190% of the FPL. 130 CMR 519.010(A)(1) and (2). MSP for SLMB is available for individuals whose income is between 190% and 210% of the FPL. 130 CMR 519.011(A)(1)(b). Appellant will need to apply to be sure all other eligibility factors are met. Eligibility for an MSP plan may change Appellant's CommonHealth premium amount.

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

Premium Billing