

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402568
Decision Date:	6/21/2024	Hearing Dates:	03/25/2024 and 04/09/2024
Hearing Officer:	Kimberly Scanlon	Record Open to:	05/31/2024

Appearance for Appellant:



Appearances for MassHealth:

Dianne Braley (Taunton MEC – 03/25/2024)

Kelly Sousa (Taunton MEC – 04/09/2024)

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:	Community; Over 65; Eligibility; Premium Hardship Waiver
Decision Date:	6/21/2024	Hearing Dates:	03/25/2024 and 04/09/2024
MassHealth's Reps.:	Dianne Braley; Kelly Sousa; Carmen Fabery	Appellant's Rep.:	
Hearing Location:	Taunton MassHealth Enrollment Center (Remote)		

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 February 6, 2024, MassHealth notified the appellant that she is not eligible for MassHealth benefits because her family did not pay the MassHealth monthly premium (Exhibit 1). The appellant filed this appeal in a timely manner on February 20, 2024 (130 CMR 610.015(B) and Exhibit 1). Any MassHealth action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal (130 CMR 610.032(A)(3)). A fair hearing took place on March 25, 2024 and was reconvened for additional testimony on April 9, 2024. After the hearing, the record was held open for the submission of additional documentation.

Action Taken by MassHealth

MassHealth notified the appellant that she is not eligible for MassHealth benefits because her family did not pay the MassHealth monthly premium.

Issue

The appeal issues are whether MassHealth correctly determined that the appellant is no longer eligible for MassHealth benefits, and whether the appellant is eligible for a waiver or reduction of her monthly premiums.

Summary of Evidence

MassHealth was represented at hearing by an eligibility representative from the MassHealth Enrollment Center in Taunton (different representatives appeared for each hearing date) and a representative from the Premium Billing Unit; these parties all testified telephonically. The record establishes the following facts and chronology: The appellant is a single individual over the age of 65 who is living in the community. MassHealth received the appellant's application for MassHealth benefits on May 26, 2023. By notice dated September 21, 2023, MassHealth notified the appellant that it had approved her for MassHealth CommonHealth benefits effective May 16, 2023. MassHealth determined that the appellant was eligible for CommonHealth as a disabled working adult.

Because the appellant was found eligible for MassHealth CommonHealth coverage, MassHealth determined that she must pay a monthly premium. MassHealth assessed a monthly premium of \$211.40, effective October 2023. MassHealth calculated the premium using the appellant's countable monthly income in relation to the federal poverty level (FPL). The appellant's gross monthly income totals \$6,226.52, consisting of \$1,035.90 from Social Security, \$2,575.13 from one state pension, \$2,572.16 from a second state pension, and \$43.33 from earnings (dog sitting). Per regulation, MassHealth deducted 5% of the federal poverty level for a household size of one and determined a total countable income figure of \$6,165.52. Using the premium schedule in the MassHealth regulations, MassHealth calculated a supplemental monthly premium of \$211.40.

The Premium Billing representative testified that MassHealth's Premium Billing Unit issued premium bills for October through December of 2023, totaling \$634.20. Because MassHealth did not receive any premium payment from the appellant, MassHealth terminated the appellant's benefits on December 23, 2023 and then issued the February 6th notice on appeal (Exhibit 1).¹ The Premium Billing representative noted that on February 12, 2024, the appellant submitted a MassHealth Premium Hardship Waiver application. She stated that as of the date of hearing, MassHealth Premium Billing had not yet acted on the application, but noted that based on a review of the documentation submitted in support of the application, the application would be denied.² She stated that MassHealth reviewed the medical bills submitted, and because they do

¹ On December 12, 2023, MassHealth notified the appellant that her coverage would end on December 26, 2023 because her family did not pay the MassHealth monthly premium (Exhibit 12).

² A review of the record clarifies that MassHealth Premium Billing did act on the appellant's waiver application. MassHealth Premium Billing denied the application on the basis that the appellant did meet the rules of extreme financial hardship (Exhibit 13). The Premium Billing representative explained post-hearing that while the denial letter is

not total at least 7.5% of her gross income (which would be \$5,547.60), she does not qualify for a waiver or reduction of her premium. She added that some of the bills are too old (incurred more than 12 months prior to the waiver application) and others are otherwise covered by insurance.

The appellant's representative, her child and power of attorney, appeared at the hearing telephonically. He stated that he had been informed that employed disabled individuals do not need to be compensated for their services. He explained that the appellant is not paid for dog sitting. He therefore needs MassHealth to recalculate the appellant's income. The MassHealth representative explained that because the appellant is over the age of 65 and was only recently approved for MassHealth CommonHealth benefits, she does need to have some earned income to remain qualified for this coverage type. She indicated that he could adjust the earnings to \$1 per month, which would slightly lower the appellant's income.

The appellant's representative also stated that the waiver application was submitted in December, not February, and he has the certified mail receipt to confirm this fact. He was sick in December and January and did not realize that there was an issue with the application until February. He then resubmitted the application on February 12, 2024. The appellant's representative explained that the appellant has many uncovered medical expenses. The appellant has celiac disease and spends a significant amount of money on gluten free groceries. She also pays out of pocket for Depends and other medical supplies. She pays out of pocket for certain medications and a pharmacy delivery service. The appellant's representative stated that after all is calculated, the appellant spends approximately \$3,200 each month on medically related items and services. He stated the appellant needs MassHealth coverage to cover certain medical supplies, as well as medical transportation, but argues that she cannot afford to pay the \$211.40 monthly premium. He understands that the appellant needs to pay something but is hopeful that the premium can at least be reduced.

At the reconvened hearing, the Premium Billing representative provided additional information about the waiver application and why it was denied. She stated that the allowable bills submitted by the appellant total \$1,741.27, far short of the \$5,547.60 needed to meet the 7.5% threshold. Further, she added that even though MassHealth has no evidence that the appellant submitted a December application, an application at that time would have been denied on the same grounds. The Premium Billing representative asked the appellant's representative whether the appellant is current on her mortgage and/or utility payments; the appellant's representative responded that the appellant is current on these bills at this time. The appellant's representative was given a post-hearing opportunity to submit additional documentation but did not submit any further evidence (Exhibits 10-11).

dated March 19, 2024, the final review occurred on March 28, 2024, and the notice was sent out on that date. I take jurisdiction over this issue and will address it in this decision.

Findings of Fact

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

1. The appellant is a single individual over the age of 65 living in the community.
2. MassHealth received the appellant's application for MassHealth benefits on May 26, 2023.
3. On September 21, 2023, MassHealth notified the appellant that she was approved for MassHealth CommonHealth benefits effective May 16, 2023.
4. The appellant is eligible for CommonHealth as a working disabled adult.
5. MassHealth calculated a monthly CommonHealth premium of \$211.40.
6. MassHealth billed the appellant for the CommonHealth premium for the month of October through December 2023.
7. To date, MassHealth has not received any premium payments from the appellant.
8. On February 6, 2023, MassHealth notified the appellant she is not eligible for MassHealth disability benefits because her family did not pay the MassHealth monthly premium.
9. On February 12, 2024, the appellant submitted a MassHealth Premium Hardship Waiver application.
10. On March 19, 2024, MassHealth denied the waiver application on the basis that she did not meet the rules of extreme financial hardship.
11. The appellant has not submitted medical bills that total 7.5% of her gross income.

Analysis and Conclusions of Law

Certain MassHealth members are charged a monthly premium, depending on their household income level (130 CMR 506.011). Specifically, MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150% of the federal poverty level (FPL) are required to pay a monthly premium calculated in accordance with the relevant formula found at 130 CMR 506.011(B). Failure to pay this premium can result in termination of benefits and a referral to the State Intercept Program for collection of any delinquent payments (130 CMR 506.011(D)).

Here, it is undisputed that MassHealth assessed a premium and sent timely notice of that premium to the appellant.³ It is also undisputed that that appellant has, to date, not paid any

³ The appellant appealed the MassHealth notice that assessed the MassHealth CommonHealth premium. By fair

portion of the premium. The appellant argues that she cannot afford the premium and seeks to have it reduced. To that end, the appellant submitted a MassHealth Premium Hardship Waiver application. MassHealth Premium Billing denied this application on the basis that she did not meet the rules of extreme financial hardship (Exhibit 13).

MassHealth will allow a waiver or reduction of premiums for undue financial hardship. Per 130 CMR 506.011(G)(1), undue financial hardship means that the member has shown to the satisfaction of the MassHealth agency that at the time the premium was or will be charged, or when the individual is seeking to reactivate benefits, the member:

- (a) is homeless, or is more than 30 days in arrears in rent or mortgage payments, or has received a current eviction or foreclosure notice;
- (b) has a current shut-off notice, or has been shut off, or has a current refusal to deliver essential utilities (gas, electric, oil, water, or telephone);
- (c) has medical and/or dental expenses, totaling more than 7.5% of the family group's gross annual income, that are not subject to payment by the Health Safety Net, and have not been paid by a third-party insurance, including MassHealth (in this case "medical and dental expenses" means any outstanding medical or dental services debt that is currently owed by the family group or any medical or dental expenses paid by the family group within the 12 months prior to the date of application for a waiver, regardless of the date of service);
- (d) has experienced a significant, unavoidable increase in essential expenses within the last six months;
- (e) 1. is a MassHealth CommonHealth member who has accessed available third-party insurance or has no third-party insurance; and
2. the total monthly premium charged for MassHealth CommonHealth will cause extreme financial hardship the family, such that the paying of premiums could cause the family difficulty in paying for housing, food, utilities, transportation, other essential expenses, or would otherwise materially interfere with MassHealth's goal of providing affordable health insurance to low-income persons; or
- (f) has suffered within the six months prior to the date of application for a waiver, or is likely to suffer in the six months following such date, economic hardship because of a state or federally declared disaster or public health emergency.

Here, MassHealth determined that the appellant's medical and/or dental expenses do not total more than 7.5% of the family group's gross annual income. I have reviewed the record and concur

decision, the hearing officer upheld the MassHealth assessment of the \$211.40 monthly premium (see Appeal No. 2310797).

with this determination. Importantly, the appellant's representative's own calculations (medical expenses of approximately \$3,200) fall short of the 7.5% threshold.⁴ On this record, the appellant has not demonstrated that MassHealth erred in its determination that she is no longer eligible for coverage because of past-due premiums, or in its determination that she is not eligible for a waiver or reduction of her premiums based on undue financial hardship.

For these reasons, the 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

[REDACTED]

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

Maximus Premium Billing, Attn: Carmen Fabery, 1 Enterprise Drive, Suite 310, Quincy, MA 02169

⁴ Further, the record does not contain evidence that any of the other circumstances that constitute undue financial hardship exist at this time.