

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved-in-part; Denied-in-part	Appeal Number:	2403223
Decision Date:	5/28/2024	Hearing Date:	04/04/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Ryan Bond, Tewksbury MEC



*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-in-part; Denied-in-part	Issue:	Eligibility; Under 65; Income; Start Date
Decision Date:	5/28/2024	Hearing Date:	04/04/2024
MassHealth's Rep.:	Ryan Bond	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (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

Through a notice dated 2/14/24, MassHealth notified the Appellant that they were approved for MassHealth CommonHealth with a coverage start date of 1/27/24 and premium of \$21 per-month. See Exhibit 1. Appellant filed this appeal in a timely manner on 3/1/24 to challenge the effective coverage start date and coverage-type. See 130 CMR 610.015(B) and Exhibit 2. An agency's action to limit or reduce the scope of assistance is a valid ground for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth approved Appellant for CommonHealth with an effective start date of 1/27/24 and with a monthly premium of \$21.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant qualified for MassHealth CommonHealth with an effective start date of 1/27/24 and \$21 monthly premium.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing by telephone and testified as follows: Appellant is under the age of 65 and has a verified disability with an onset date of 12/17/2004. On 8/4/23, while enrolled in a MassHealth Standard with Buy-In, Appellant completed a renewal application. The renewal prompted MassHealth to request verification of income, including her Social Security benefit award letter and paystubs. Following the letter, MassHealth verified Appellant's employment income, but did not receive her Social Security award letter. Accordingly, on 12/7/23, MassHealth notified Appellant that her Standard with Buy-In would end on 12/21/23 for failure to "provide proof in the time allowed. 120 CMR 502.003(D)." See Exh. 5. Appellant's MassHealth coverage ended on 12/21/23.

On 2/6/24, MassHealth received all outstanding verifications showing that Appellant received monthly Social Security of \$1,081 and earned income of \$300 per-week (amounting to \$1,299.90 per-month). Combined, Appellant receives a total gross monthly income of \$2,380.90, placing her at 190.96% of the federal poverty level (FPL). To be eligible for MassHealth Standard, the applicant or member must have an FPL no greater than 133%. For a household of one, 133% of the FPL amounts to \$1,670 per month. Although Appellant's income exceeded the limit to re-qualify for Standard, MassHealth determined that because of her verified disability, she was eligible for MassHealth CommonHealth. Through a letter dated 2/6/24, MassHealth notified Appellant that she was approved for CommonHealth effective 1/27/24 and would owe a monthly premium of \$21 starting March 2024. See Exh. 1. Appellant appealed the 2/6/24 notice. See Exh. 2.

The MassHealth representative testified that per regulations, the effective start date for coverage is limited to 10 days prior to the date eligibility is established. Although Appellant has had a verified disability, MassHealth ended coverage (as opposed to transitioning her to CommonHealth) because proof of income was outstanding. Although Appellant eventually established eligibility on 2/6/24 (by providing proof of income), the earliest retroactive start date permitted under the regulations is 1/27/24. MassHealth noted that absent the missing proof of income, Appellant would otherwise have been eligible for CommonHealth during the lapse in coverage from 12/22/23 through 1/26/24.

Finally, MassHealth testified that Appellant receives CommonHealth as a supplemental insurance to Medicare, which is her primary insurance. As a supplemental benefit, Appellant is required to pay 60% of the full CommonHealth premium amount she would otherwise pay if she did not have another source of insurance. The full premium for an individual between 190%-199% of the FPL, like Appellant, is \$35 per-month. Sixty percent of the full \$35 premium is \$21 per-month. The MassHealth representative also noted that because Appellant has CommonHealth and is over 135% of the FPL, she is not eligible for the Medicare Savings Program (MSP) benefit. The regulations allow an individual to have either CommonHealth or MSP, but not both.

Appellant appeared at hearing and testified that, following her renewal in August of 2023 and submission of paystubs, she contacted MassHealth and was led to believe that her coverage was “all set.” She never received the 12/7/23 termination notice. Sometime after 12/21/23, when she realized she did not have coverage, she called MassHealth and spoke with a representative. Only then, after her benefit ended, was she aware there was outstanding proof of income. Appellant testified that she has been disabled for years and would have sent in any information needed to renew eligibility because of her need for health insurance. Unaware her benefit ended, Appellant went to at least two doctors’ appointments and is being billed for medical expenses incurred during the gap in coverage.

Appellant asserted that she was appealing because she wanted coverage backdated to cover the month-long gap in coverage and have her MSP benefit reinstated. Without her MSP benefit, her Social Security income is now “down to nothing.” The only additional income she receives is from her part-time job. While she did not dispute that her gross earned income is approximately \$300 per-week, Appellant asserted that she only takes home \$220 after taxes, which is “brutal.” This also does not account for her living expenses, such as rent and food. Not only is her Social Security now less than before (without the MSP benefit), but now she owes \$21 per-month for her supplemental benefit, and she cannot afford this.

Findings of Fact

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

1. Appellant is under the age of 65 and has had a verified disability since 12/17/2004.
2. On 8/4/23, while enrolled in MassHealth Standard with Buy-In, Appellant completed a renewal application, prompting MassHealth to seek verification of income.
3. On 12/7/23, MassHealth issued a notice to Appellant, stating that her coverage would end on 12/21/23 for failure to “provide proof in the time allowed.”
4. Appellant was unaware that her coverage was set to terminate on 12/21/23.
5. On 2/6/24, MassHealth received verification of Appellant’s income.
6. At all relevant times, including her benefit termination date of 12/21/23, Appellant received monthly gross income of \$2,380.90.
7. Through a letter dated 2/6/24, MassHealth notified Appellant that she was approved for CommonHealth starting 1/27/24 with a monthly premium of \$21 starting March 2024.

8. Appellant filed a timely appeal of the 2/6/24 notice.
9. Appellant did not have any MassHealth benefits between 12/22/23 and 1/26/24 and incurred out-of-pocket medical expenses during this gap.

Analysis and Conclusions of Law

The issues on appeal are: (1) whether MassHealth determined the appropriate coverage type for Appellant pursuant to its 2/6/24 eligibility determination; and (2) whether Appellant is entitled to an earlier start date.

Coverage Type

As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant or member with “the most comprehensive benefit” for which they are eligible. See 130 CMR 501.003(A). The MassHealth coverage types are listed as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,¹ disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) CommonHealth for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) Family Assistance for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) Small Business Employee Premium Assistance for adults or young adults
- (6) Limited for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (7) Senior Buy-in and Buy-in for certain Medicare beneficiaries.

¹ “Young adults” are defined at 130 CMR 501.001 as those aged 19 and 20.

See 130 CMR 505.001(A)

To establish eligibility for MassHealth, applicants must meet both the categorical *and* financial requirements. Appellant is categorically eligible for MassHealth Standard and CommonHealth based on her verified disability. To be financially eligible for Standard, the applicant or member must have a modified adjusted gross income that is less than or equal to 133% of the federal poverty level (FPL). See 130 CMR 505.002(E). At the time of MassHealth's 2/6/24 eligibility determination, the income for a household size of one (1) at 133% of the FPL was \$1,616 per-month. See 2023 MassHealth Income Standards & Federal Poverty Guidelines. By the time of the hearing, this figure was updated to \$1,670 per-month. See 2024 MassHealth Income Standards & Federal Poverty Guidelines.² The evidence shows that Appellant receives a gross monthly income of \$2,380.90, placing her at 190.96% of the FPL. As an individual with a verified disability whose income exceeds the income limit to qualify for Standard, MassHealth appropriately determined that CommonHealth was the next most comprehensive benefit for which Appellant was eligible. See 130 CMR 501.003(A); see also 130 CMR 505.001(A)(2) ("CommonHealth [is a MassHealth coverage-type] for disabled adults...who are not eligible for MassHealth Standard").

In conjunction with her eligibility for CommonHealth, MassHealth appropriately assessed Appellant a monthly premium of \$21. See 130 CMR 505.004(I); see also 130 CMR 506.011(B)(2). Pursuant to eligibility regulations, MassHealth charges monthly premiums to certain³ CommonHealth members with income above 150% of the FPL. See 130 CMR 506.011. These premiums are calculated "based on a member's household modified adjusted gross income (MAGI), their household size, and the premium billing family group (PBFG) rules as described in 130 CMR 506.011(A). Id. The full premium for CommonHealth adults with FPL between 190% and 199% of the FPL is \$35 per-month. See 130 CMR 506.011(B)(2)(b). Because Appellant has health insurance to which MassHealth does not contribute, i.e. Medicare, she is subject to a lower premium in accordance with MassHealth's "supplemental premium formula" chart. See 130 CMR 506.011(B)(2)(c). The supplemental rate for individuals between 150% and 200% of the FPL, is 60% of the amount they would have to pay for the "full premium." Id. Based on her FPL, MassHealth correctly calculated a supplemental premium of \$21 per-month ($35 \times .60 = 21$) to maintain her CommonHealth benefit.

Lastly, MassHealth did not err in determining Appellant was no longer eligible for the Medicare Savings Plan (MSP) benefit, otherwise known as "buy-in." This benefit, through which MassHealth will pay the member's monthly Medicare Part B premium, is only available for CommonHealth members whose income is at or less than 135% of the FPL. See 130 CMR 505.004(L).⁴ As Appellant's income exceeds this amount, she is not eligible for the MSP benefit

² The income standards for 2024 went into effect 3/1/24.

³ Members that are exempt from paying premiums are discussed in 130 CMR 506.011(J). There is no evidence that Appellant would meet the criteria to be exempt from the premium requirement.

⁴ Should Appellant opt out of her CommonHealth benefit, MassHealth would determine eligibility in accordance

with CommonHealth.

The appeal is DENIED-in-part as MassHealth did not err in determining that CommonHealth is the most comprehensive coverage-type for which Appellant is eligible and that, to receive this benefit, she is responsible for a premium of \$21 per-month. See 130 CMR 501.003(A).

Benefit Start Date

MassHealth regulations at 130 CMR 502.006, which describe the protocols for determining a member's coverage start date, provide the following:

[I]ndividuals who submit all required verifications within 90 days of a request for information, the start date of coverage is determined upon receipt of the requested verifications *and coverage begins ten days prior to the date of application.*

See 130 CMR 502.006(A)(2)(emphasis added).

Pursuant to this authority, MassHealth approved Appellant for CommonHealth effective 1/27/24, 10 days prior to 2/6/24, the date it received proof of income. Additionally, where a party files a timely appeal of a MassHealth action, MassHealth Fair Hearing Rules at 130 CMR 610.071(A)(2) allow the hearing officer to consider evidence, regardless of when it was submitted to the agency, regarding when all eligibility conditions were met. Such evidence may be used for the purpose of adjusting the effective date of the appellant's eligibility status. The regulation, states, in full, the following:

The hearing officer will not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. ***The effective date of any adjustments to the appellant's eligibility status will be the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.***

130 CMR 610.071(A)(2) (Emphasis added).

At hearing, MassHealth noted that absent the missing proof of income, Appellant would otherwise have been eligible for CommonHealth on and following the termination date of 12/21/23. For all relevant times, including her lapse in coverage, Appellant had a verified disability and received income at the amount reflected in the paystubs and Social Security award letter. As Appellant met

with the applicable regulatory standards and income thresholds for non-CommonHealth members pursuant to 130 CMR 519.011.

all eligibility conditions for CommonHealth during her lapse in coverage, she is entitled to an earlier start date of 12/22/23, such that she does not have a gap following the termination of her Standard benefit. Pursuant to 130 CMR 610.071(A)(2), the appeal is APPROVED-in-part with respect to Appellant's CommonHealth start date.

Order for MassHealth

Adjust the effective date of Appellant's CommonHealth benefit from 1/27/24, as stated in the 2/6/24 approval notice, to 12/22/23, ensuring no lapse in coverage following termination of her Standard benefit on 12/21/23.

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.

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

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