

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied in part; Approved in part	<b>Appeal Number:</b>	2404255
<b>Decision Date:</b>	6/24/2024	<b>Hearing Date:</b>	04/26/2024; 06/11/2024
<b>Hearing Officer:</b>	Emily Sabo		

**Appearance for Appellant:**

Pro se

**Appearances for MassHealth:**

Faisal Mugimi, Charlestown MEC (day 1);  
Nancy Derisma, Charlestown MEC (day 2)



*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 in part; Approved in part	<b>Issue:</b>	Community Eligibility; Under 65
<b>Decision Date:</b>	6/24/2024	<b>Hearing Date:</b>	04/26/2024; 06/11/2024
<b>MassHealth's Rep.:</b>	Faisal Mugimi; Nancy Derisma	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center (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 February 9, 2024, MassHealth notified the Appellant that it would end her coverage on February 23, 2024, because MassHealth had not received a renewal application. 130 CMR 502.007(A) and Exhibit 1. Through a notice dated February 27, 2024, MassHealth notified the Appellant that she was approved for MassHealth CommonHealth effective January 27, 2024, with a \$9/month premium effective March 2024.<sup>1</sup> 130 CMR 506.011 and Exhibit 5. The Appellant filed this appeal in a timely manner on March 19, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth coverage, and then found that the Appellant was eligible for MassHealth CommonHealth.

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<sup>1</sup> The MassHealth representative clarified that the Appellant does not owe a CommonHealth premium.

## **Issue**

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002, in determining that the Appellant is not eligible for MassHealth Standard.

## **Summary of Evidence**

The hearing was held telephonically over two days. MassHealth was represented by a different eligibility specialist each hearing day.

The Appellant verified her identity and testified that she is an adult between the ages of 21 to 64 years old. The Appellant testified that she had completed her MassHealth renewal and was concerned because she received a notice from the Social Security Administration that Massachusetts will no longer pay her Medicare Part B premiums after February 2024, and that \$174.70 would be deducted from her social security payments. The Appellant explained that this has created a financial hardship for her, as she has other debts and expenses. The Appellant testified that she is disabled and unable to work. The Appellant testified that this has caused her suffering as two months of the \$174.70 premiums were deducted from her social security payments at once, and she did not have enough money to buy food.

The MassHealth representative testified that the Appellant is a household size of one. The MassHealth representative testified that the Appellant's monthly income is \$1,899, and that the Appellant receives \$1,694 in social security and \$205 from a pension. The MassHealth representative testified that the Appellant's income is too high to qualify for MassHealth Standard, which would pay for the Appellant's Medicare Part B. The MassHealth representative also clarified that the Appellant does not owe a \$9/premium for CommonHealth. The MassHealth representative explained that the Appellant has a verified disability and is eligible for (and enrolled in) MassHealth CommonHealth. The MassHealth representative did not know why the Appellant had previously been enrolled in MassHealth Standard.

## **Findings of Fact**

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

1. The Appellant is an adult between the ages of 21 to 64 years old. Testimony and Exhibit 4.
2. The Appellant has a household size of one. Testimony.
3. The Appellant's monthly income is \$1,899, which comes from \$1,694 in social security and

\$205 from a pension. Testimony.

4. The Appellant has a verified disability. Testimony.
5. The Appellant is eligible for MassHealth CommonHealth without a monthly premium. Testimony.

## Analysis and Conclusions of Law

The MassHealth regulations provide as follows:

### 505.002: MassHealth Standard

#### (E) Disabled Individuals.

(1) Disabled Adults. A disabled adult 21 through 64 years old or a disabled young adult 19 through 20 years old who does not meet the requirements described at 130 CMR 505.002(B)(3)(a)1. is eligible for MassHealth Standard coverage if they meet the following requirements:

(a) the individual is permanently and totally disabled as defined in 130 CMR 501.001: *Definition of Terms*;

(b) the modified adjusted gross income of the MassHealth Disabled Adult household as described in 130 CMR 506.002(C): *MassHealth Disabled Adult Household* is less than or equal to 133% of the federal poverty level (FPL), or the individual is eligible under section 1634 of the Social Security Act (42 U.S.C. § 1383c) as a disabled adult child or as a disabled widow or widower, or is eligible under the provisions of the Pickle Amendment as described at 130 CMR 519.003: *Pickle Amendment Cases*;

(c) the individual is 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*; and

(d) the individual complies with 130 CMR 505.002(M).

(2) Determination of Disability. Disability is established by

(a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);

(b) a determination of disability by the SSA; or

(c) a determination of disability by the Disability Evaluation Services (DES).

(3) Extended MassHealth Eligibility. Disabled persons whose SSI disability assistance has been terminated and who are determined to be potentially eligible for MassHealth continue to receive MassHealth Standard until the MassHealth agency makes a determination of ineligibility.

130 CMR 505.002(E).

### 505.004: MassHealth CommonHealth

(A) Overview.

(1) 130 CMR 505.004 contains the categorical requirements and financial standards for CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.

(2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): *MassHealth CommonHealth*.

....

(C) Disabled Adults. Disabled adults must meet the following requirements:

(1) be 21 through 64 years old;

(2) be permanently and totally disabled, as defined in 130 CMR 501.001: *Definition of Terms*;

(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: *The One-time Deductible*; or

(b) have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 200% of the federal poverty level (FPL) and provide verification that they are HIV positive; and

(6) comply with 130 CMR 505.004(J).

....

(L) Medicare Premium Payment.

(1) The MassHealth agency, in accordance with the Medicare Savings Program as described in 130 CMR 519: *Medicare Savings Program (MSP) – Qualified Medicare Beneficiaries (QMB)* and 519.011: *Medicare Saving Program (MSP) – Specified Low Income Medicare Beneficiaries and Qualifying Individuals* also pays the cost of the monthly Medicare Part B premium on behalf of members who meet the requirements of 130 CMR 505.004 and who have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 135% of the FPL.

(2) The coverage described in 130 CMR 505.004(L)(1) begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth.

130 CMR 505.004(A), (C), (L).

506.002: Household Composition

(C) MassHealth Disabled Adult Household. The household consists of

(1) the individual;

- (2) the individual's spouse if living with them;
- (3) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them; and
- (4) if any individual described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children.

130 CMR 506.002(C).

#### 506.007: Calculation of Financial Eligibility

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type.

- (1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.
- (2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.
  - (a) A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(M).
  - (b) 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).
  - (c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.
- (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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

- (1) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.
- (2) Round these annual figures up to the nearest hundredth.
- (3) Divide by 12 to arrive at the monthly income standards.

130 CMR 506.007(A), (B), (C).

The Appellant has a monthly income of \$1,899. For 2024, 100% of the federal poverty level of a household size of one, is a monthly income of \$1,255. Five percentage points of \$1,255 is \$62.75.  $\$1,899 - \$62.75 = \$1,836.25$ .  $\$1,836.25 / \$1,255 = 146\%$ . Based on 130 CMR 506.007(A), the Appellant's income is 146% of the federal poverty level. Therefore, she is not financially eligible for MassHealth Standard because her income is not less than or equal to 133% of the federal poverty level. 130 CMR 505.002(E)(1)(b). The Appellant is also not eligible to have her Medicare Part B premium paid as a MassHealth CommonHealth member because her income is not less than or equal to 135% of the federal poverty level. 130 CMR 5045.004(L). Because the Appellant's income is less than 150% of the federal poverty level, she does not owe a CommonHealth premium. See 130 CMR 506.011.

I credit the Appellant's distress and I am sorry for her difficulties. Unfortunately, she is not financially eligible for MassHealth Standard or to have her Medicare Part B premium paid as a MassHealth CommonHealth member. 130 CMR 505.002(E)(1)(b); 130 CMR 505.004(L). Accordingly, that part of her appeal is denied. The Appellant's appeal regarding the \$9/month CommonHealth premium is approved as her income is less than 150% of the federal poverty level. 130 CMR 506.011.

## **Order for MassHealth**

Correct the Appellant's CommonHealth approval notice to indicate that the Appellant does not owe a \$9 premium. If the Appellant has paid MassHealth such a premium since March 2024, refund her that money.

## **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.

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Emily Sabo  
Hearing Officer  
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129