

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved-in-part; Denied-in-part	Appeal Number:	2404395
Decision Date:	6/12/2024	Hearing Date:	04/10/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Kristine Angelari – MEC
Roxana Noriega – Premium Assistance



*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:	Community; Under-65; Eligibility; Employer-Sponsored Insurance
Decision Date:	6/12/2024	Hearing Date:	04/10/2024
MassHealth's Reps.:	Kristine Angelari; Roxana Noriega	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center	Aid Pending:	Yes

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 March 6, 2024, MassHealth informed the appellants that the appellant-husband's benefits would end on May 5, 2024, if he is not enrolled in the appellant-wife's employer-sponsored insurance. (Exhibit 1.) The appellants filed this timely appeal on March 21, 2024, and the appellant-husband's benefits are protected pending this appeal.¹ (Exhibits 2 and 5; 130 CMR 610.015(B); 610.036.) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

¹ The Board of Hearings dismissed the appeal for lack of authority, as it was premised upon the appellant-husband's MassHealth benefits but the appellant-wife filed the appeal. The appellant-husband submitted a signed appeal form, and this hearing was scheduled.

Action Taken by MassHealth

MassHealth required the appellant-wife to enroll the appellant-husband in her employer's health insurance plan in order for him to continue receiving MassHealth CommonHealth coverage.

Issue

The appeal issue is whether MassHealth may, pursuant to 130 CMR 505.004(K) and 503.007, terminate a CommonHealth recipient's coverage if they refuse to enroll in employer-sponsored insurance that MassHealth has made available at no greater cost to the member.

Summary of Evidence

The appellants are husband and wife, and they have a household of two. The appellant-husband is disabled and covered by the MassHealth CommonHealth benefit, with a monthly premium of \$48. MassHealth's Enrollment Center ("MEC") representative testified that the renewal application included verified gross employment income of \$1,745 every 2 weeks. Based on this, MassHealth determined the appellant's household income to be equivalent to 219.5% of the federal poverty level.² On or around December 10, 2023, MassHealth sent out a request for information regarding the appellant-wife's employer-sponsored insurance ("ESI"). MassHealth received that information, and on or around March 6, 2024, MassHealth informed the appellant-wife that she must enroll the appellant-husband in her ESI, or his coverage would be terminated on May 5, 2024.³

MassHealth's Premium Assistance representative testified that they identified four [REDACTED] plans for which they would pay all of the monthly premium. Premium Assistance pays one month in advance, so the appellants would never be expected to pay without first having the money for the insurance in their bank account from MassHealth. Then, whenever the appellant-husband went to the doctor, he would show the ESI card first and the MassHealth card second. If there were copayments or non-covered services under the ESI, MassHealth would cover those.⁴

The appellant-wife testified that she could not afford to enroll in her ESI. Specifically, she is concerned because she cannot afford to use the ESI herself. The appellant-wife has multiple serious

² Based upon the paystubs submitted by the appellant, it appears that MassHealth was not excluding pre-tax deductions from the appellant's gross income in making its calculation.

³ At the time of the hearing appellant-wife was covered by MassHealth Standard. Her coverage had started during her treatment for breast cancer, and she was protected on MassHealth Standard during the Federal Public Health Emergency for Covid-19 ("FPHE"). MassHealth's MEC representative testified that no termination notice has been sent out yet regarding the appellant-wife's eligibility; she was not listed as a person to be terminated if they did not enroll in her ESI.

⁴ The appellant-husband would still be responsible for his CommonHealth premium.

medical conditions herself, including a history of breast cancer, that require her to go to the doctor regularly. The appellant completed the disability supplement a couple weeks ago, and she testified that it was being processed. Further, her income fluctuates. She testified that the last two weeks she has only worked 32 hours per week, so she makes even less.

MassHealth's MEC representative suggested that if her income fluctuates, the appellant-wife can use her annual tax returns to get an average picture of annual income, or she can update her income using paystubs if she feels her income is going to stay at a reduced rate for a long time. However, she is responsible for updating her income within 10 days of a continuing change, so she would also need to alert MassHealth if her income were to increase again. The appellant-wife submitted three paystubs, showing bi-weekly pay. Her hourly gross rate is \$17.45 per hour with an \$8.73 per hour premium for working on Sundays. There was one paystub from [REDACTED] that showed only 16.85 hours with gross pay of \$368.50 across two weeks, but the more recent paystubs from [REDACTED] reported 40 and 32.95 hours per week. The gross pay for the two 40-hour weeks was \$1,692.99, but there were pre-tax deductions of \$119.58. The gross pay for the paystub with one 32.95-hour week was \$1,494.34 with \$107.67 in pre-tax deductions. Even at 32 hours per week without the Sunday shift-differential, the appellants' income is approximately 142% of the federal poverty level for a household of two.⁵

The appellant-wife pointed out that if she works less than 32 hours per week, she would not even be eligible for the ESI. If this happened, then she would be eligible again for MassHealth, partly because her monthly income would be below 133% of the federal poverty level. Alternately, if she is found disabled, she would be eligible for the same coverage her husband has, CommonHealth. The appellant-wife complained, however, that if she makes any less money, then she cannot afford to pay her other bills, but if she continues to make the small amount she makes, she will need to use her employer's unaffordable health plan. However, because the appellants' income is above 133% of the federal poverty level, the appellant-wife should not be eligible for any MassHealth coverage unless she is disabled or is undergoing breast cancer treatment. If her MassHealth were terminated and she did not enroll in her ESI, she will be completely uncovered by health insurance.⁶

Findings of Fact

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

⁵ This estimate does not consider pre-tax dental and 401(k) withholdings. If her hours are reduced further, she would need to reverify her income through paystubs.

⁶ At the time of the hearing, MassHealth had not sought to terminate the appellant-wife's coverage, but the MEC representative did not know why. The appellant-wife was informed that she could appeal any termination if/when it was sent out.

- 1) The appellants have a household of two. The appellant-husband is disabled. (Testimony by MEC representative.)
- 2) During the annual renewal, the appellant-wife verified employment income equivalent to 219.5% of the federal poverty level. (Testimony by MEC representative.)
- 3) The appellant submitted two bi-weekly paystubs showing taxable income of \$1,573.41 and \$1,386.67. (Exhibit 2, pp. 11-12.)
- 4) The appellant-wife's employer offers ESI, and Premium Assistance identified four plans that would qualify for Premium Assistance payments. (Exhibit 2, p. 3; testimony by Premium Assistance representative.)
- 5) The appellant-husband is covered by CommonHealth with a \$48 monthly premium. (Testimony by the appellant; Exhibit 1.)

Analysis and Conclusions of Law

MassHealth offers a variety of coverage types based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below the relevant financial thresholds. Financially, members under the age of ■ who seek MassHealth Standard or CarePlus benefits must have countable income under 133% of the federal poverty level.⁷ (130 CMR 505.002(E), 505.008(A).) However, disabled adults between the ages of ■ and ■ can qualify for the CommonHealth program, regardless of their income by paying a monthly premium.⁸ (See 130 CMR 505.004(B)-(C), 506.009.)

MassHealth Standard, CarePlus, and CommonHealth benefits require that covered members "use potential health insurance benefits ... and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with ... 130 CMR 506.012: *Premium Assistance Payments*." (130 CMR 505.002(M); see also 505.004(J); 505.008(C); and 503.007.)

If MassHealth determines that the individual has access to employer-sponsored health insurance, the employer is contributing at least 50% of the premium cost, and the insurance meets all other criteria described in 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage.

⁷ Individuals with breast or cervical cancer may be eligible with income below 250% of the federal poverty level. (See 130 CMR 505.002(F).)

⁸ MassHealth no longer requires disabled members under the age of ■ to meet a one-time deductible or work 40 hours per month. (EOM 23-28 (Dec. 2023).)

MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides premium assistance payments as described in 130 CMR 506.012: *Premium Assistance Payments*. **Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals** unless the individual is younger than ■ years old, the individual is ■ through ■ years old, and has household income less than or equal to 150% of the federal poverty level, or is pregnant.

(130 CMR 505.004(K)(2)(b)1. (emphasis added).)

For individuals under the age of ■ countable unearned income includes “the total amount of taxable income” a member receives “after allowable deductions on the U.S Individual Tax Return,” and specifically includes “social security benefits.” (130 CMR 506.003(B).) Monthly income is derived by multiplying average weekly income by 4.333, and “[f]ive 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).)

The federal poverty level for a household of two in 2024 is \$1,704 per month. Five percent of this federal poverty level is \$85.20. The appellant’s income for eligibility purposes is \$3,121.30 per month, which is equivalent to 183.17% of the federal poverty level for a household of two.⁹ There is no dispute regarding the appellants’ underlying coverage. The appellants accept that the appellant-husband is covered by CommonHealth, and MassHealth has not yet sought to terminate the appellant-wife’s Standard coverage.

The MassHealth agency may charge a monthly premium to CommonHealth members who have income above 150% of the federal poverty level. (130 CMR 506.011.) The CommonHealth premium is calculated based upon deciles above the federal poverty level. Adults with income just over 150% of the federal poverty level must pay \$15 per month. Five dollars is added for each decile above 150-160% of the federal poverty level, up to 200%, where the premium would be \$40. From there, eight dollars is added for each decile up to 400%, and the rate increases from there. (See 130 CMR 506.011(B)(2)(b).)

The appellants’ household monthly income is between 180 and 190% of the federal poverty level, which results in a full CommonHealth premium of \$30 per month. Therefore, the appellant-husband’s CommonHealth premium should be reduced to \$30 per month, as of March 1, 2024. Therefore, this appeal is APPROVED-in-part to the extent that the CommonHealth premium is reduced.

⁹ $(\$1,573.41 + \$1,386.67)/4 = \$740.02 * 4.333 = 3206.50666 - \$85.20 = \$3,121.30 / \$1,704.$

However, as a CommonHealth recipient, the appellant-husband must enroll in private insurance for which Premium Assistance payments are available.

To the extent that this appeal seeks to allow the appellant-husband to keep MassHealth benefits without enrolling in eligible ESI, it must be DENIED.¹⁰

Order for MassHealth

Reduce the appellant-husband's CommonHealth premium to \$30 as of March 1, 2024. Remove Aid Pending. If the appellant-husband has not been enrolled in ESI, MassHealth may terminate his coverage.

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.

¹⁰ Based upon MassHealth's testimony at the hearing, this decision makes no findings on the appellant-wife's MassHealth eligibility, as MassHealth has not sought to terminate her coverage based upon her income at this time.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Rep: Sylvia Tiar, Tewksbury MEC, 367 East Street, Tewksbury, MA 01876-1957