

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied; Remand	<b>Appeal Number:</b>	2405110
<b>Decision Date:</b>	6/21/2024	<b>Hearing Date:</b>	05/07/2024
<b>Hearing Officer:</b>	Emily Sabo		

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Anastasia Agnos, Springfield MEC  
Carmen Fabery, Maximus 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

<b>Appeal Decision:</b>	Denied; Remand	<b>Issue:</b>	CommonHealth Premium; Premium Hardship Waiver
<b>Decision Date:</b>	6/21/2024	<b>Hearing Date:</b>	05/07/2024
<b>MassHealth's Reps.:</b>	Anastasia Agnos; Carmen Fabery	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield 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 March 27, 2024, MassHealth determined that the Appellant is eligible for MassHealth CommonHealth and that he owes a monthly premium of \$36.40 beginning in April 2024. 130 CMR 506.011 and Exhibit 1. The Appellant filed this appeal in a timely manner on March 27, 2024. 130 CMR 610.015(B) and Exhibit 2. Reduction of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth determined that the Appellant owes a monthly premium of \$36.40, starting in April 2024.

### Issues

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011(B)(2)(c), in determining that the Appellant owes a monthly premium of \$36.40. A secondary issue, raised at the hearing, is whether the Appellant qualifies for a waiver or reduction of premiums for undue financial hardship, pursuant to 130 CMR 506.011(G).

## **Summary of Evidence**

The hearing was held telephonically. MassHealth was represented by an eligibility specialist and a premium billing representative, who testified as follows: the Appellant is an adult between the ages of 21-64 and has a household size of one. The Appellant has a verified disability and has Medicare. The MassHealth eligibility specialist testified that the Appellant's monthly income is \$2,891.00 from Social Security, which equals 225.36% of the federal poverty level.

The Appellant agreed that his monthly income is \$2,891.00. He was concerned about what changed such that his benefits changed from 2023 to 2024. The Appellant explained that he has Medicare as his primary insurance and MassHealth previously paid his Part A and B Medicare premiums. The Appellant testified that he now has a Medicare premium of \$187, and that combined with other bills, these are expenses that he cannot afford. The Appellant testified that he would like to go back to his prior benefit, where MassHealth paid his Medicare premium. The Appellant explained that his rent is greater than his monthly income, such that he relies on family members to cover the shortfall for his housing and other living expenses. The Appellant explained that he must live close to the hospital due to his condition and regular surgeries. The Appellant expressed frustration that he had just gotten back on his feet and had been homeless until two years ago. The Appellant stated, that based on that experience, he would prioritize paying his rent and keeping his housing before medical and premium costs.

The MassHealth premium billing representative testified that MassHealth did not charge premiums during the declared public health emergency, which ended in May 2023. The MassHealth premium billing representative stated that they had an old hardship waiver for the Appellant, but that they cannot process it and would need updated information and supporting documentation from the Appellant.

## **Findings of Fact**

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

1. The Appellant is an adult between the ages of 21-64. Testimony and Exhibit 4.
2. The Appellant has a household size of one. Testimony.

3. The Appellant has a monthly income of \$2,891.00. Testimony.
4. The Appellant's monthly income, for a household of one, equals 225.36% of the federal poverty level. Testimony.

## Analysis and Conclusions of Law

MassHealth may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150 % of the federal poverty level, as provided in 130 CMR 506.011. Specifically, 130 CMR 506.011(B)(2), provides the following formula for CommonHealth members:

(b) The full premium formula for young adults with household income above 150% of the FPL, adults with household income above 150% of the FPL, and children with household income above 300% of the FPL is provided as follows. The full premium is charged to members who have no health insurance and to members for whom the MassHealth agency is paying a portion of their health insurance premium.

<b>CommonHealth Full Premium Formula Young Adults and Adults above 150% of the FPL and Children above 300% of the FPL</b>		
<b><i>Base Premium</i></b>	<b><i>Additional Premium Cost</i></b>	<b><i>Range of Monthly Premium Cost</i></b>
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

(c) The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided as follows. A lower supplemental premium is charged to members who have health insurance to which the MassHealth agency does not contribute. Members receiving a premium assistance payment from the MassHealth agency are not eligible for the supplemental premium rate.

<b>CommonHealth Supplemental Premium Formula</b>	
<b>% of Federal Poverty Level (FPL)</b>	<b>Monthly Premium Cost</b>
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)(b), (c).

Here, the Appellant's monthly income is 225.36% of the federal poverty level. Accordingly, using the calculation provided by 130 CMR 506.011(B)(2), the full premium amount is  $\$40 + (\$8 \times 2) = \$56$ . Because the Appellant has Medicare, the supplemental premium formula is used, such that it is  $\$56 \times 65\% = \$36.40$ . Therefore, MassHealth did not err in calculating the Appellant's CommonHealth supplemental premium at \$36.40/monthly, and the appeal is denied.

At the hearing, the Appellant explained that his housing and other living expenses exceed his income, such that he cannot afford his MassHealth CommonHealth premium. The Appellant testified that he had previously been homeless and would forego health coverage rather than be unhoused. MassHealth may terminate a member's eligibility for benefits if a premium bill is not paid within 60 days,<sup>1</sup> unless the member requests a waiver of past-due premiums as described in 130 CMR 506.011(G). 130 CMR 506.011(D)(1). If such a waiver of premiums is granted, MassHealth will reactivate coverage following termination. 130 CMR 506.011(E)(1).

MassHealth's regulation regarding waiver or reduction of premiums for undue financial hardship is set forth in 130 CMR 506.011(G):

(G) Waiver or Reduction of Premiums for Undue Financial Hardship.

(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

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<sup>1</sup> If the Appellant's benefits are terminated due to delinquent premium payments, MassHealth will send the Appellant a termination notice, which the Appellant would also have the opportunity to appeal.

- (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.
- (2) If the MassHealth agency determines that the requirement to pay a premium results in undue financial hardship for a member, the MassHealth agency may, in its sole discretion
- (a) waive payment of the premium or reduce the amount of the premiums assessed to a particular family; or
  - (b) grant a full or partial waiver of a past due balance. Past due balances include all or a portion of a premium accrued before the first day of the month of hardship; or
  - (c) both 130 CMR 506.011(G)(2)(a) and (b).
- (3) Hardship waivers may be authorized for 12 months. At the end of the 12-month period, the member may submit another hardship application.
- (a) The 12-month time period begins on the first day of the month in which the hardship application and supporting documentation is received by the MassHealth agency.
  - (b) The 12-month time period may be retroactive to the first day of the third calendar month before the month of hardship application.

(4) If a hardship waiver is granted and past due balances are not waived, the MassHealth agency will automatically establish a payment plan for the member for any past due balances.

(a) The duration of the payment plan will be determined by the MassHealth agency. The minimum monthly payment on the payment plan will be \$5.

(b) The member must make full monthly payments on the payment plan for the hardship waiver to stay in effect. Failure to comply with the established payment plan will terminate the hardship waiver.

Regarding the Appellant's eligibility for a hardship waiver of the premium, a full or partial waiver of the past due balance, or both, this request is remanded to MassHealth to determine whether the Appellant meets the conditions outlined in 130 CMR 506.011(G). The Appellant is directed to provide MassHealth with evidence that he is experiencing any of the above financial hardships.

## **Order for MassHealth**

Determine whether the Appellant is entitled to a waiver of the premium, a full or partial waiver of the past due balance, or both pursuant to 130 CMR 506.011(D), (E), (F), and (G).

## **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

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88  
Industry Avenue, Springfield, MA 01104

MassHealth Representative: Maximus Premium Billing