

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2405750
<b>Decision Date:</b>	05/24/2024	<b>Hearing Date:</b>	05/20/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Yassory Pena



*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>	Approved	<b>Issue:</b>	CommonHealth Eligibility
<b>Decision Date:</b>	05/24/2024	<b>Hearing Date:</b>	05/20/2024
<b>MassHealth's Rep.:</b>	Yassory Pena	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center		

### 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 1, 2024, MassHealth notified the appellant that he is eligible for MassHealth Senior Buy-In. (130 CMR 519.010; Exhibit 1). The appellant filed a timely appeal on April 9, 2024. (130 CMR 610.015; Exhibits 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant is eligible for MassHealth Senior Buy-In. (130 CMR 519.010).

### Issues

Whether MassHealth was correct in determining that the appellant is eligible for MassHealth Senior Buy-In. A second issue is whether the appellant is eligible for MassHealth CommonHealth.

## **Summary of Evidence**

All parties appeared in person. The appellant submitted a request to have an interpreter at the hearing. The appellant appeared with the individual named as the appeal representative and another relative. At the beginning of the hearing, all three parties agreed that they could move forward with the hearing without an interpreter. The interpreter scheduled for the hearing was dismissed.

The appellant is over the age of 65. On September 27, 2023, MassHealth received an initial application for benefits. On September 29, 2023, MassHealth sent the appellant a request for information. On December 1, 2023, MassHealth received all of the information necessary to determine eligibility.

The appellant is a family group of one and has a gross monthly income of \$2,135, which includes benefits from the Social Security Administration. The MassHealth representative testified that this income is above 100% of the federal poverty level but less than 190% of the federal poverty level. The MassHealth representative testified that the appellant was not eligible for MassHealth Standard as his income was above 100% of the federal poverty level but eligible for the MassHealth Senior Buy-In as his income was below 190% of the federal poverty level.

The MassHealth representative testified that the appellant could become eligible for MassHealth Standard if he met a deductible in the amount of \$9,558 for medical expenses incurred from March 2024 through August 2024. The MassHealth representative noted at hearing that the agency had records of the appellant being deemed disabled. The MassHealth representative testified that if the appellant is working at least 40 hours each month he could be eligible for MassHealth CommonHealth.

The appellant's appeal representative did not challenge the income information presented by MassHealth. At hearing, the appellant's representative testified that the appellant is working for him doing tasks around the home for at least 40 hours each month. At hearing, the appellant's representative submitted a letter with his signature indicating that the appellant was performing these tasks at least 40 hours each month. (Exhibit 4). The MassHealth representative responded that the agency could accept the letter and determine the appellant eligible based upon the receipt of this information on the day of the hearing. The MassHealth representative testified that the agency could approve coverage 10 days prior to the date of the hearing, as that was when MassHealth received information about the appellant working making him qualify for MassHealth CommonHealth.

## **Findings of Fact**

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

1. The appellant is over the age of 65.
2. The appellant has been deemed disabled.
3. The appellant is a family group of one with monthly gross income of \$2,135.
4. The appellant is working at least 40 hours each month.
5. On September 27, 2023, MassHealth received an initial application for benefits.
6. On September 29, 2023, MassHealth sent the appellant a request for information.
7. On December 1, 2023, MassHealth received all of the information necessary to determine eligibility.
8. MassHealth determined the appellant eligible for MassHealth Senior Buy-In as of January 1, 2024.

## **Analysis and Conclusions of Law**

MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age and older for applicants who meet the requirements of 130 CMR 505.004(B)(2), (3), and (5) to be eligible for CommonHealth. (130 CMR 519.012(A)(1)). These regulations require disabled working adults to:

- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;
- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms; . . .
- (5) be ineligible for MassHealth Standard.

As noted at hearing by both parties, the appellant meets these requirements based upon testimony and evidence presented at hearing. The appellant has been deemed disabled, is ineligible for MassHealth Standard and working for his appeal representative prior to the date of the hearing. The MassHealth representative responded that the agency could only provide coverage 10 days prior to the hearing date as that is the date upon which MassHealth received this information. The MassHealth representative testified that the agency was correct in the

eligibility decision on appeal as the agency did not have information about the appellant working at the time of that decision. Therefore, the agency could only accept and honor the receipt of information and make an adjustment effective as of the day of the hearing.

Pursuant to 130 CMR 610.071(A)(2), the effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of the when the supporting evidence was submitted. The appellant submitted supporting evidence the day of the hearing that he is working at least 40 hours each month for the individual serving as his appeal representative. Therefore, the effective date of any adjustment should be reflected in the agency receiving this information during the application process.

Pursuant to 130 CMR 519.002(A)(2), other regulatory provisions that apply to CommonHealth applicants and members 65 years of age and older include: 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2), and (N). The regulations at 130 CMR 505.004(M)(1) state that the medical coverage date for MassHealth CommonHealth is described at 130 CMR 502.006: Coverage Dates, except as described at 130 CMR 505.004(M)(2) and (3). The regulations at 130 CMR 505.004(M)(2) and (3) are not applicable to this case.

Pursuant to 130 CMR 502.006(A), the date of coverage for MassHealth is determined by the coverage type for which the applicant may be eligible. Individuals who submit all required verifications within the 90-day time frame, the start date of coverage is ten days prior to the date of application, except as specified in 130 CMR 502.006(C). The regulations at 130 CMR 502.006(C) speak to the start date of payment for a Medicare premium for individuals with income less than or equal to 135% of the federal poverty level. The appellant's income falls above this requirement. Therefore, the only start date that is applicable to the appellant is one that is 10 days prior to the date of the application. For an application received on September 27, 2023, the eligibility start date would be September 17, 2023.

As the appellant presented evidence of his meeting the requirements at hearing, this appeal is approved to ensure the agency provides coverage 10 days prior to the date of the application received on September 27, 2023.<sup>1</sup>

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<sup>1</sup> While the rules regarding the effective date of adjustments fall under the regulations regarding the fair hearing process (130 CMR 610.001 *et seq.*), the agency issued a policy regarding hearing resolution in which the agency would work with members to resolve matters at issue during an appeal. (Eligibility Operations Memo 23-27). The pre-hearing resolution process went into effect on October 1, 2023 to provide members and applicants the opportunity to resolve the appeal without a formal hearing. Such action would likely incorporate the whole appeal, including the consideration of information provided by a member to see if it is sufficient to resolve the matter at issue. In this case, during the appeal, the appellant provided information sufficient to resolve the matter at issue and ensure coverage honoring the original application date. However, the subsequent agency action was to approve coverage as if the information was presented outside of the hearing process. This action does not appear to comply with the intent of this resolution process. While this is not the basis of this decision, it is something for the agency to consider in implementing this process.

Insofar as the appellant seeks CommonHealth coverage, the appeal is APPROVED.

## **Order for MassHealth**

Rescind the notice on appeal and determine the appellant eligible for MassHealth CommonHealth as of September 17, 2023, as that is 10 days prior to the receipt of an application on September 27, 2023.

## **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

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

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