

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2405830
<b>Decision Date:</b>	7/3/2024	<b>Hearing Date:</b>	05/13/2024
<b>Hearing Officer:</b>	Rebecca Brochstein, BOH Deputy Director		

**Appearances for Appellant:**



**Appearances for MassHealth:**

Shanell Santiago, Tewksbury MEC  
Carmen Fabery, MH Premium Billing



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Eligibility (Under 65); Income
<b>Decision Date:</b>	7/3/2024	<b>Hearing Date:</b>	05/13/2024
<b>MassHealth Reps.:</b>	Shanell Santiago Carmen Fabery	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center (Telephonic)	<b>Aid Pending:</b>	Yes

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated April 2, 2024, MassHealth informed the appellant that her coverage type would change from MassHealth Standard to MassHealth CommonHealth effective April 16, 2024 (Exhibit 1). The appellant filed this appeal in a timely manner on April 11, 2024, and her MassHealth Standard benefits were protected pending the appeal (130 CMR 610.015(B); Exhibit 2). Change in coverage type is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that her coverage type would change from MassHealth Standard to MassHealth CommonHealth.

### Issue

The appeal issue is whether MassHealth correctly determined the appellant's eligibility for benefits.

## Summary of Evidence

An eligibility caseworker from the Tewksbury MassHealth Enrollment Center as well as a representative from the Premium Billing Unit appeared at the hearing, which was held telephonically. The caseworker testified that the appellant is a disabled individual under the age of ■ who was previously eligible for MassHealth Standard. On April 2, 2024, she filed a MassHealth renewal application over the phone. MassHealth did a system match and determined that the appellant's Social Security income had increased to \$1,981 per month, which puts her at 152.85% of the federal poverty level. Because of this increase, MassHealth determined that the appellant is no longer eligible for MassHealth Standard, as the income limit for that program is 133% of the federal poverty level.

On April 2, 2024, MassHealth notified the appellant that her MassHealth Standard coverage would end on April 16, 2024, and that she would be approved for MassHealth CommonHealth with a monthly premium of \$9 starting in May 2024. The caseworker noted that the appellant also has had a Medicare Buy-In benefit with her MassHealth Standard (which covered the cost of her Medicare Part B premium), and that she would not have this benefit with MassHealth CommonHealth.

The MassHealth Premium Billing representative reiterated that the appellant would have a \$9 monthly premium with her CommonHealth coverage starting in May 2024. She noted that the appellant's MassHealth Standard coverage has been protected so the appellant has not yet been billed for her CommonHealth coverage.

The appellant appeared at the hearing telephonically and testified on her own behalf. She stated that her net Social Security check is only \$1,941 per month, and that she must pay rent of \$1,400 plus utilities. She stated that after paying this she has nothing left to cover her food and other expenses.

## Findings of Fact

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

1. The appellant, who is under the age of ■ and disabled, was previously eligible for MassHealth Standard.
2. On April 2, 2024, the appellant filed a MassHealth renewal application over the phone. MassHealth did a system match to verify the appellant's income and determined that her Social Security income was \$1,981 per month.
3. The appellant's income puts her at 152.85% of the federal poverty level.
4. On April 2, 2024, MassHealth notified the appellant that she was no longer financially eligible for MassHealth Standard, and that her Standard benefits would terminate on April

16, 2024. MassHealth approved the appellant for MassHealth CommonHealth with a premium of \$9 per month, which was set to begin in May 2024.

5. On April 11, 2024, the appellant filed a timely appeal and her MassHealth Standard benefits were protected pending the appeal.

### **Analysis and Conclusions of Law**

The MassHealth coverage types are set forth at 130 CMR 505.001(A), as follows:

- (1) MassHealth Standard – for people who are pregnant, children, parents and caretaker relatives, young adults<sup>1</sup>, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults [REDACTED] years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-in and Buy-in)— for certain Medicare beneficiaries.

The financial standards referred to in 130 CMR 505.000 use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: *Household Composition*. 130 CMR 505.001(B).

Under 130 CMR 505.002(E)(1), a disabled adult [REDACTED] years old or a disabled young adult [REDACTED] 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

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<sup>1</sup> “Young adults” are defined at 130 CMR 501.001 as those aged [REDACTED]

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 § 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).

At issue in this case is MassHealth's determination that the appellant is no longer eligible for MassHealth Standard because her income exceeds the allowable limit of 133% of the federal poverty level. The procedures for calculating financial eligibility for both MassHealth MAGI and MassHealth Disabled Adult households are set forth at 130 CMR 506.007:

(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 in 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.

Under 130 CMR 506.002(A)(2), MassHealth uses the MassHealth Disabled Adult household composition rules to determine member eligibility for the following benefits: (a) MassHealth Standard, as described in 130 CMR 505.002(E): *Disabled Adults*; (b) MassHealth CommonHealth, as described in 130 CMR 505.004(B) through (E); and (c) MassHealth Family Assistance, as described in 130 CMR 505.005(F): *Eligibility Requirement for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or Below 100% of the Federal Poverty Level*.

Under 130 CMR 506.002(C), the MassHealth Disabled Adult 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 ■ 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.

Under these rules, the appellant has a household of one. She has gross Social Security income of \$1,981 per month, which equates to 152.85% of the federal poverty level for her household size after the five-percentage-point deduction described in 130 CMR 506.007(A)(3).<sup>2</sup> This figure is over the income limit of 133% FPL (\$1,670 per month). See 130 CMR 505.002(E)(1). Accordingly, MassHealth correctly determined that the appellant is not financially eligible for MassHealth Standard.

Further, MassHealth correctly calculated the appellant's CommonHealth Premium at \$9 per month. For adults with income over 150% of the federal poverty level, the full CommonHealth premium is determined as follows, pursuant to 130 CMR 506.011(B)(2)(b):

Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
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	Add \$14 for each additional	\$646 - \$912

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<sup>2</sup> As set forth above, that section provides that “[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.” Five percentage points of the current FPL (\$1,255 per month for a household of one) is \$62.75. With that deduction, the appellant's income is \$1,918.25, which is 152.85% of the federal poverty level.

at \$646	10% FPL until 1000%	
Above 1000% FPL—start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

For individuals with other primary health insurance, the CommonHealth Supplemental Premium Formula is set forth at 130 CMR 506.011(B)(2)(c):

<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

With income at 152.85% of the federal poverty level, the appellant's full premium cost would be \$15 per month. As she has Medicare as her primary insurance, however, she is charged only 60% of the full premium, or \$9 per month.<sup>3</sup> MassHealth's determination was therefore correct.

This appeal is denied.

### **Order for MassHealth**

Remove aid pending protection and proceed with adjustment to coverage type in accordance with this decision.

### **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.

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Rebecca Brochstein  
Deputy Director  
Board of Hearings

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<sup>3</sup> As noted by the MassHealth caseworker, the appellant also does not qualify for the Medicare Savings (Buy-In) Program because her income exceeds 135% of the federal poverty level. See 130 CMR 505.004(L).

cc: Tewksbury MEC

Maximus Premium Billing