

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:

[REDACTED]
[REDACTED]
[REDACTED]

Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2406656
Decision Date:	08/15/2024	Hearing Date:	06/04/2024
Hearing Officer:	Emily Sabo	Record Open to:	07/02/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kathryn Begin, Tewksbury MEC



*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:	Premium Billing
Decision Date:	08/15/2024	Hearing Date:	06/04/2024
MassHealth's Rep.:	Kathryn Begin	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center (Telephone)	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 April 9, 2024, MassHealth approved the Appellant for MassHealth CommonHealth.¹ 130 CMR 505.004, 130 CMR 506.011, and Exhibit 1. The Appellant filed this appeal in a timely manner on April 25, 2024, on the basis that he could not afford the premium. 130 CMR 610.015(B) and Exhibit 2. Dispute as to premium calculation is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth approved the Appellant for MassHealth CommonHealth, with a \$168 monthly premium beginning May 2024.

¹ The notice states that the Appellant was approved effective January 9, 2024, with a \$168/month premium as of May 2024. Exhibit 1.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in determining that the Appellant owes a \$168/month CommonHealth premium.

Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is an adult between the ages of 21-64, has a disability, and a household size of one. The MassHealth representative testified that the Appellant had a gross monthly income of \$4,615.71, which equals 362.79% of the federal poverty level.

The Appellant verified his identity and testified that he claims his minor child as his dependent on his tax filings. The Appellant testified that he had a liver transplant and that a \$168/month premium is too expensive for him. He testified that his hours as a personal care attendant had been reduced as he was only working for one client, and so his income had been reduced.

The record was held open until June 18, 2024, for the Appellant to provide MassHealth with his current income and tax filing information, and until July 2, 2024, for MassHealth to review and respond. The MassHealth representative stated that based on the appellant's gross biweekly income of \$1539 (\$3,334.34 per month) and adding the Appellant's minor child as a tax dependent, his monthly CommonHealth premium is \$88/month, effective July 1, 2024. Exhibit 6. The tax forms submitted by the Appellant indicate that his child who he claimed as a tax dependent lived with him for the 2023 tax year. *Id.*

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, who is disabled and eligible for MassHealth CommonHealth as a disabled working adult. Testimony, Exhibit 1, Exhibit 4.
2. The Appellant has a minor child who lives with him. Exhibit 6.
3. The Appellant's gross household income is \$1539 every two weeks. Exhibit 6.

Analysis and Conclusions of Law

MassHealth regulations provide:

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*.

(B) Disabled Working Adults. Disabled working adults must meet the following requirements:

- (1) be 21 through 64 years of age (for those 65 years of age or older, see 130 CMR 519.012: *MassHealth CommonHealth*);
- (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*;
- (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) be ineligible for MassHealth Standard; and
- (6) comply with 130 CMR 505.004(J).

130 CMR 505.004(A), (B).

506.002: Household Composition

(A) Determination of Household Composition. MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways.

(1) MassHealth Modified Adjusted Gross Income (MAGI) Household Composition. MassHealth uses the MassHealth MAGI household composition rules to determine member eligibility for the following benefits:

- (a) MassHealth Standard, as described in 130 CMR 505.002(B), (C), (D), (F), and (G);
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(F) and (G);
- (c) MassHealth CarePlus, as described in 130 CMR 505.008: *MassHealth CarePlus*;
- (d) MassHealth Family Assistance, as described in 130 CMR 505.005(B) through (E);
- (e) MassHealth Limited, as described at 130 CMR 505.006: *MassHealth Limited*; and
- (f) Children's Medical Security Plan (CMSP), as described in 130 CMR 522.004: *Children's Medical Security Plan (CMSP)*.

(2) MassHealth Disabled Adult Household. 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.*

...

(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(A), (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).

506.011: MassHealth Premiums and the Children's Medical Security Plan (CMSP) Premiums

The MassHealth agency may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150% of the federal poverty level (FPL), as provided in 130 CMR 506.011. The MassHealth agency may charge a monthly premium to members of the Children's Medical Security Plan (CMSP) who have incomes at or above 200% of the FPL. MassHealth and CMSP premiums amounts are calculated based on a member's household modified adjusted gross income (MAGI) and their household size as described in 130 CMR 506.002 and 130 CMR 506.003 and the premium billing family group (PBFG) rules as described in 130 CMR 506.011(A). Certain members are exempt from paying premiums, in accordance with 130 CMR 506.011(J).

(A) Premium Billing Family Groups.

(1) Premium formula calculations for MassHealth and CMSP premiums are based on premium billing family groups (PBFG). A PBFG is comprised of

(a) an individual;

(b) a couple who are two persons married to each other according to the rules of the Commonwealth of Massachusetts and are living together; or

(c) a family who live together and consist of

1. a child or children younger than 19 years old, any of their children, and their parents;

2. siblings younger than 19 years old and any of their children who live together, even if no adult parent or caretaker is living in the home; or

3. a child or children younger than 19 years old, any of their children, and their caretaker relative when no parent is living in the home.

(2) A child who is absent from the home to attend school is considered as living in the home.

(3) A parent may be natural, adoptive, or a stepparent. Two parents are members of the same PBFG as long as they are mutually responsible for one or more children who live with them.

(4) In a family with more than one child, any child with a MAGI household income that does not exceed 300% FPL will have its premium liability determined based on the MAGI household income of the child in the family PBFG with the lowest percentage of the FPL. If a child in the PBFG has an income percentage of the FPL at or below 150% of the FPL, premiums for all children in the PBFG are waived.

(5) MassHealth and CMSP premiums for children with a MassHealth MAGI household income greater than 300% of the FPL and all premiums for young adults and adults are calculated using the individual's FPL and the corresponding premium amount as described in 130 CMR 506.011.

(6) For individuals within a PBFG that is approved for more than one premium billing coverage type, except where application of 130 CMR 506.011(A)(4) will result in a lower premium for children in the PBFG, the following apply.

(a) When the PBFG contains members in more than one coverage type or program, including CMSP, and who are responsible for a premium or required member contribution, the PBFG is responsible for only the higher premium or required member contribution.

(b) When the PBFG includes a parent or caretaker relative who is paying a premium for and is receiving Qualified Health Plan (QHP) with Premium Tax Credits, the premiums for children in the PBFG are waived once the parent or caretaker relative enrolls in and pays for a QHP.

(B) MassHealth and Children's Medical Security Plan (CMSP) Premium Formulas

....

(2) The premium formulas for MassHealth CommonHealth members whose eligibility is described in 130 CMR 505.004(B): *Disabled Working Adults* through (G): *Disabled Children Younger than 18 Years Old* are as follows.

....

(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.

CommonHealth Full Premium Formula Young Adults and Adults above 150% of the FPL and Children above 300% of the FPL		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150%	Add \$5 for each	\$15 — \$35

FPL—start at \$15	additional 10% FPL until 200% FPL	
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

130 CMR 506.011(A), (B)(2)(b).

Here, I find that the Appellant is a disabled working adult as MassHealth has found him eligible for CommonHealth, and he is working at least 40 hours per month.² Exhibit 1, Exhibit 6, 130 CMR 505.004(B). In determining the Appellant's household composition, his household consists of the Appellant and his child, who is younger than 19 and lives with him, such that he has a household size of two. 130 CMR 506.002(C).

The Appellant's earned income is \$1539 every two weeks, such that his monthly income is \$3,334.24 ($\$1539/2 = \$769.50 \times 4.333 = \$3,334.24$). 130 CMR 506.007(A)(2)(c). Five percentage points of the current federal poverty level for a household size of two is \$85.20 ($\$1,704 \times 5\% = \85.20). 130 CMR 506.007(A)(3). Therefore, the household monthly income is \$3,249.04 ($\$3,334.24 - \$85.20 = \$3,249.04$). 130 CMR 506.007(A). This is 190.67% of the federal poverty level, based on the 2024 *Federal Register*, which states that 100% of the federal poverty level is \$1,704 for a household of two ($\$3,249.04/1704 = 190.67\%$). 130 CMR 506.007. Accordingly, based on the MassHealth CommonHealth premium formula, the Appellant's monthly premium should be \$35 ($\$15 + (\$5 \times 4) = \35). 130 CMR 506.011((B)(2)(b)).

Thus, the Appellant's appeal is approved in part, such that he should be charged a \$35/month CommonHealth premium.³ The appeal is denied insofar as the appellant does have a

² The Appellant's pay stub indicates that he works 40.5 hours per week. Exhibit 6.

³ The Appellant is reminded of his ongoing responsibility to report changes, including changes to income, to

CommonHealth premium.

Order for MassHealth

Correct the Appellant's CommonHealth premium to \$35/month beginning in May 2024.

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.

Emily Sabo
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

Premium Billing

MassHealth within 10 days, as provided in 130 CMR 501.010(B).