

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2407250
<b>Decision Date:</b>	8/7/2024	<b>Hearing Date:</b>	6/21/2024
<b>Hearing Officer:</b>	Cynthia Kopka		

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Nicole Veras, Tewksbury MEC  
Carmen Fabery, 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	<b>Issue:</b>	Tax intercept, premium billing
<b>Decision Date:</b>	8/7/2024	<b>Hearing Date:</b>	6/21/2024
<b>MassHealth's Reps.:</b>	Nicole Veras, Carmen Fabery	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewsbury (remote)	<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

By notice dated April 19, 2024 MassHealth, through the Department of Revenue, issued to Appellants notice of refund applied to debt (tax intercept notice) owed to MassHealth for unpaid premiums. Exhibit 1. Appellant filed this timely appeal on May 16, 2024.<sup>1</sup> Exhibit 2. 130 CMR 610.015(B). MassHealth's tax intercept is valid basis for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth intercepted \$779.60 from Appellants' state tax refund.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in determining that Appellant owed past due premiums.

### Summary of Evidence

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<sup>1</sup> The notice issued to Appellants erroneously lists May 9, 2024 as the appeal deadline.

MassHealth was represented at hearing by phone by employees from its eligibility and premium billing units. Appellant appeared by phone. Documents submitted for hearing were included in the record. A summary of testimony and documentary evidence follows.

In 2020, MassHealth issued multiple approval notices to Appellant's minor child:

- Notice 971951087 dated January 23, 2020, approving Appellant's child for Family Assistance effective January 13, 2020 with a \$28 monthly premium;
- Notice 972127901 dated February 5, 2020 approving Appellant's child for Children's Medical Security Plan (CMSP) effective January 26, 2020 with a \$64 monthly premium;
- Notice 972189307 dated February 11, 2020 approving Appellant's child for MassHealth CommonHealth effective January 13, 2020 with a \$183.40 monthly premium; and
- Notice 973148744 dated July 10, 2020 approving Appellant's child for MassHealth CommonHealth effective January 13, 2020 with no monthly premium.

Exhibit 5.

On April 29, 2022, MassHealth approved Appellant's child for CommonHealth effective September 17, 2021 with a monthly premium of \$204.40 starting May 2022. Exhibit 4 at 9-11. This notice lists Appellant's household size at 4 and household monthly income that was determined to be 499.50% of the federal poverty level (FPL). Due to the Covid-19 public health emergency, Appellant was not billed a premium until [REDACTED] *Id.* at 5.

On June 27, 2023, MassHealth sent Appellant a notice that her child's CommonHealth benefit was renewed with an updated monthly premium of \$183.40 beginning July 2023. *Id.* at 7-8. The copy of the notice provided for hearing omitted the page which listed the household size and monthly household income.

On October 4, 2023, MassHealth terminated Appellant's child's benefit effective October 18, 2023 due to past due premiums. *Id.* at 6. MassHealth billed Appellant \$204.40 for [REDACTED] and \$183.40 for [REDACTED] 2023. *Id.* at 5. Appellant's outstanding balance totaled \$754.60. *Id.* On April 11, 2024, Appellant's Massachusetts state tax return was intercepted and \$754.60 was applied to the outstanding debt with a \$25 fee. *Id.*, Exhibit 1. Copies of bills sent to Appellant were included in the record, Exhibit 6.

The MassHealth eligibility representative testified that Appellant's household income in [REDACTED] and [REDACTED] was \$140,000 yearly, which was determined to be 510% of the FPL in [REDACTED] and 475.11% of the FPL in [REDACTED]. Appellant confirmed that these income amounts in [REDACTED]. Appellant testified that her child was diagnosed with leukemia in [REDACTED] Appellant had a financial navigator assisting her at [REDACTED] but the hospital closed overnight. Appellant had to quickly shift her child's treatment to [REDACTED]

█████ Appellant always had private insurance and MassHealth was meant to be secondary to that and was supposed to help. Appellant argued that she would not have wanted the coverage if she knew it would have a monthly cost. Appellant argued that she was never asked to pay a bill. Appellant did not need this insurance. Appellant argued she went from not owing anything for MassHealth to having money taken from her tax return.

Appellant tried getting straightforward information from MassHealth and █████ There was not a helpful financial navigator at █████ as there had been at █████ Appellant tried calling MassHealth repeatedly, but it was a full-time operation trying to get someone on the line.

Appellant testified that she was not trying to cheat the system and that the experience with having her child diagnosed was traumatic. Appellant argued that the whole process was confusing, as evidenced by the fact that MassHealth sent so many different notices with different information. Appellant did not receive straightforward information until the hearing. When asked if Appellant received the notices and bills, Appellant was not sure. She kept track of her papers but could not find any bills or notices earlier than the █████ overdue notice. Appellant confirmed her address, which was the address listed on the notices and bills contained in Exhibits 5 and 6.

Appellant argued that when her child first qualified for MassHealth, it was a good thing and Appellant never saw a bill. Appellant now has been hammered with medical bills that are piling up. Appellant argued that when she received a █████ overdue notice, she did not know why she was being billed in the first place.

## Findings of Fact

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

1. Appellant is in a household of four with yearly income of \$140,000 in █████
2. Appellant's child is under █████ years old and disabled.
3. Appellant's family has private primary insurance.
4. In █████ 100% of the FPL for a household of four was \$2,313 monthly and \$27,756 yearly.
5. In █████ 100% of the FPL for a household of four was \$2,500 monthly and \$30,000 yearly.
6. On April 29, 2022, MassHealth approved Appellant's child for CommonHealth effective September 17, 2021 with a monthly premium of \$204.40 starting May 2022. Exhibit 4 at

9-11.

7. This notice informed Appellants that if they did not want to pay the premium, they must call to cancel his benefit within 60 days from the date the premium changed, and that if they did not cancel his benefits by that date, he will need to pay any premium bills received. *Id.* at 10.
8. Due to the Covid-19 public health emergency, Appellant was not billed until [REDACTED]. *Id.* at 5.
9. In June 2023, MassHealth sent Appellant an invoice for \$204.40 due July 7, 2023. Exhibit 6 at 1.
10. On June 27, 2023, MassHealth sent Appellant a notice that her child's CommonHealth benefit was renewed with an updated monthly premium of \$183.40 beginning July 2023. Exhibit 4 at 7-8.
11. In July 2023, MassHealth sent Appellant an invoice for \$387.80 due August 6, 2023. Exhibit 6 at 2.
12. In August 2023, MassHealth sent Appellant an invoice for \$571.20 due September 6, 2023. *Id.* at 3.
13. On August 8, 2024, MassHealth sent Appellant a notice that her premium was 60 days late. This notice states that the benefits may be terminated if the bill is not paid in 14 days, and states that Appellant's state tax refund may be taken. *Id.* at 4.
14. In September 2024, MassHealth sent Appellant an invoice for \$754.60 due October 7, 2023. *Id.* at 5.
15. On October 4, 2024, MassHealth notified Appellant that her child's benefit would terminate effective October 18, 2024 for failure to pay premiums. Exhibit 4 at 6.
16. In October 2024, MassHealth sent Appellant an invoice for \$754.60 due November 6, 2023. Exhibit 6 at 6.
17. On November 8, 2023, MassHealth sent Appellant a final notice that her premium was 120 days late. This notice states that the benefits may be terminated if the bill is not paid in 14 days, and states that Appellant's state tax refund may be taken. *Id.* at 9.
18. In December 2023, MassHealth sent Appellant an invoice for \$754.60 due January 6, 2024. *Id.* at 10.

19. On December 8, 2023, MassHealth sent Appellant a final notice that her premium was 120 days past due. *Id.* at 11.
20. In January 2024, MassHealth sent Appellant an invoice for \$754.60 due February 6, 2024. *Id.* at 12.
21. Each invoice and past due notice notify Appellant that that MassHealth may take action to collect the premiums, including intercepting the tax refund.
22. On January 9, 2024, MassHealth sent Appellant a final notice that her premium was 120 days past due and delinquent. The letter states that MassHealth will take more action in 30 days to collect premiums, including taking tax refunds. *Id.* at 13.
23. Appellant received the January 9, 2024 letter.
24. On April 19, 2024 MassHealth, through the Department of Revenue, issued to Appellants notice of refund applied to debt owed to MassHealth for unpaid premiums. The total amount intercepted including fees was \$779.60. Exhibit 1.
25. Appellant filed this timely appeal on May 16, 2024.

## Analysis and Conclusions of Law

MassHealth may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150 percent of the FPL. 130 CMR 506.011. MassHealth may also charge a premium for CMSP for members who have income at or above 200% of the FPL. *Id.*

MassHealth will terminate a member's eligibility for benefits if a premium bill is not paid within 60 days of the date on the bill. 130 CMR 506.011(D)(1). If the member contacts MassHealth by telephone, in writing, or online and requests a voluntary withdrawal within 60 calendar days from the date of the eligibility notice and premium notification, MassHealth premiums are waived. 130 CMR 506.011(C)(5). It is the member's responsibility to notify MassHealth of his or her intention to withdraw from coverage. 130 CMR 506.011(H). If a premium remains unpaid for 150 days, MassHealth may refer the member to the State Intercept Program in compliance with 815 CMR 9.00: Collection of Debts. 130 CMR 506.011(D)(3).

The eligibility requirements for MassHealth CommonHealth are set forth in pertinent part:

(G) Disabled Children Younger than [REDACTED] Years Old. Disabled children younger than [REDACTED] years old must meet the following requirements:

- (1) be permanently and totally disabled, as defined in 130 CMR 501.001: *Definition of Terms*;
- (2) be ineligible for MassHealth Standard; and
- (3) be a citizen as described at 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrant, or a nonqualified PRUCOL, as described in 130 CMR 504.003: *Immigrants*.

(H) Determination of Disability. Disability is established by

- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
- (2) a determination of disability by the SSA; or
- (3) a determination of disability by the Disability Evaluation Services (DES).

(I) MassHealth CommonHealth Premium. Disabled adults, disabled working adults, disabled young adults, and disabled children who meet the requirements of 130 CMR 505.004 may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). No premium is assessed during a deductible period.

(J) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits, in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, 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 the MassHealth agency in accordance with 130 CMR 505.002(O) and 130 CMR 506.012: *Premium Assistance Payments*. Members must access those other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

130 CMR 505.004.

According to 130 CMR 505.004(I), children eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). For children above 300% of the FPL, MassHealth uses the following formula:

<b>CommonHealth Full Premium Formula Young Adults and Adults above 150% of the FPL and Children above 300% of the FPL</b>		
<b>Base Premium</b>	<b>Additional Premium Cost</b>	<b>Range of Monthly Premium Cost</b>
Above 150% FPL—start at \$15	Add \$5 for each additional 10% FPL until	\$15 — \$35

	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(B)(2)(b). Members who have health insurance to which MassHealth does not contribute may receive a lower supplemental premium, as follows.

<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)(c).

In this appeal, MassHealth’s premium calculations were correct based on the household income and supplemental premium formula. Appellant acknowledged not having paid the MassHealth premium, arguing that she was not aware that MassHealth CommonHealth came at a monthly cost. Appellant was unsure whether she had received the notices or the bills, though she acknowledged receiving the January 9, 2024 past due notice. Appellant has not met her burden of demonstrating that MassHealth’s action in billing her for CommonHealth or intercepting her tax refund to cover the premium debt and fees was made in error. Accordingly, this appeal is denied.

## Order for MassHealth



None.

## **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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Cynthia Kopka  
Hearing Officer  
Board of Hearings

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

Maximus Premium Billing