

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407362
Decision Date:	7/9/2024	Hearing Date:	6/12/2024
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Fabienne Jeanniton, Tewksbury MEC
Karishma Raja, 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

Appeal Decision:	Denied	Issue:	CommonHealth premium
Decision Date:	7/9/2024	Hearing Date:	6/12/2024
MassHealth's Reps.:	Fabienne Jeanniton and Karishma Raja	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury (virtual)	Aid Pending:	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 12, 2024, MassHealth approved Appellant's child for MassHealth's CommonHealth benefit with a monthly premium. Exhibit 1. Appellant filed this timely appeal on May 8, 2024. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth approved Appellant's child for MassHealth's CommonHealth benefit with a monthly premium.

Issue

The appeal issue is whether the premium was calculated correctly and whether Appellant is obligated to pay the MassHealth CommonHealth premium.

Summary of Evidence

The MassHealth eligibility representative appeared virtually and testified as follows. On April 12, 2024, MassHealth notified Appellant that her child under the age of 18 was eligible for MassHealth's CommonHealth benefit. Exhibit 1. Per this notice, Appellant would owe a monthly premium of \$246.40 beginning May 2024. MassHealth calculated the premium based on Appellant's household size of 5 and a monthly income that was 552.68% of the federal poverty level (FPL). Appellant's household income was calculated at \$17,000 per month. Appellant's family has primary insurance, and the CommonHealth benefit is secondary to that. The MassHealth representative encouraged Appellant to speak to the Premium Assistance unit at 800-862-4840 and complete an application to see if she would be eligible for assistance with the primary insurance and/or the CommonHealth premiums.

The MassHealth Premium Billing representative appeared virtually and provided documents in support, Exhibit 4. The Premium Billing representative testified that Appellant had paid the first bill issued for the May premium. Another bill was issued for June, due July 14, 2024. Premium Billing will waive unpaid premiums if Appellant withdraws from coverage within 90 days of the premium notification. This deadline to withdraw and be eligible for waiver of premiums was extended from 60 days after the Covid-19 public health emergency. Premium Billing would not be able to waive paid premiums if Appellant had used the benefit. The Premium Billing representative agreed to send a hardship waiver application to Appellant by mail.

Appellant appeared virtually and testified as follows. Appellant was told she would need a case number for Premium Assistance to help her but believes she may have spoken with the wrong department. Appellant has made two premium payments to MassHealth and has used the benefit for secondary coverage. Appellant has incurred high medical bills after her child was diagnosed and treated at Boston Children's Hospital. Appellant's child has a chronic condition. Appellant was under the impression that she would not have a separate MassHealth premium due to her child's disability and that it was secondary coverage.

Findings of Fact

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

1. Appellant is in a household of five with monthly income of \$17,000.
2. Appellant's child is under 18 years old and disabled.
3. Appellant's family has private primary insurance.
4. In 2024, the monthly FPL for a household of five was \$3,049; 133% of the FPL was \$4,055; and 150% of the FPL was \$4,573.

5. On April 12, 2024, MassHealth approved Appellant's child for MassHealth's CommonHealth benefit with a monthly premium of \$246.40. Exhibit 1.
6. Appellant filed this timely appeal on May 8, 2024. Exhibit 2.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) MassHealth Standard – for people who are pregnant, children, parents and caretaker relatives, young adults, 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 21 through 64 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 – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

- (A) Earned Income.

(1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.

(2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.

(3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S. Individual Tax Return.

(2) Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses, for the amount and populations allowed under federal law;
- (5) one-half self-employment tax;
- (6) self-employment retirement account;

- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);
- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and
- (12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law.

To be eligible for MassHealth Standard as a child, Appellant's monthly income would have to be less than or equal to 150% of the FPL. 130 CMR 505.002(B)(2). The undisputed evidence in the record demonstrates that Appellant's household gross monthly income totaled \$17,000. MassHealth had determined that Appellant's monthly income was 552.68% of the FPL. Accordingly, Appellant's household income is too high to be eligible for MassHealth Standard.

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

(G) Disabled Children Younger than 18 Years Old. Disabled children younger than 18 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. Here, Appellant is categorically eligible for CommonHealth as a disabled child pursuant to 130 CMR 505.004(G). 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:

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% 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

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.

CommonHealth Supplemental Premium Formula		
% of Federal Poverty Level (FPL)	Monthly Cost	Premium

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).

According to the chart at 130 CMR 506.011(B)(2)(b), at 552.68% of the FPL, Appellant's premium would be \$352. Appellant has other insurance and is entitled to only pay 70% of the supplemental premium, which would be \$246.40. 130 CMR 506.011(B)(2)(c).

MassHealth's calculation of Appellant's monthly premium for CommonHealth was not made in error. Accordingly, this appeal is denied. Appellant is encouraged to reach out to Premium Assistance at 800-862-4840 to see if she is eligible for reimbursement of some or all of the premiums.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

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