

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2408570
<b>Decision Date:</b>	8/15/2024	<b>Hearing Date:</b>	07/05/2024
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearances for MassHealth:**  
Nicole Conrad (Taunton MEC) *via telephone*  
Karishma Raja (Premium Billing) *via telephone*



*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>	Over 65/Community/ CommonHealth/MSP
<b>Decision Date:</b>	8/15/2024	<b>Hearing Date:</b>	07/05/2024
<b>MassHealth's Reps.:</b>	Nicole Conrad; Karishma Raja	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<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

Through a notice dated May 21, 2024, MassHealth informed the appellant that her coverage would change to CommonHealth as of April 9, 2024. (See 130 CMR 519. and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on May 29, 2024. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved the appellant for MassHealth CommonHealth beginning April 9, 2024.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.012, in determining that the appellant is eligible for MassHealth CommonHealth but not for the Medicare Savings Plan.

## Summary of Evidence

A worker from Taunton MassHealth Enrollment Center (MEC) (the MassHealth representative), a MassHealth Premium Billing Research Specialist (the Premium Billing representative), and the appellant all attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant is a community resident living in a household of one who is over [REDACTED] years old. (Testimony). MassHealth has determined that the appellant is disabled. (Testimony). The appellant's gross monthly income (GMI) is \$1,807 consisting of \$1,767 from Social Security and \$40 that she earns as a working disabled individual. (Testimony). After subtracting five percentage points from this total, the appellant's countable income is \$1,744.25, which places her at 138.98% of the federal poverty level (FPL). (Testimony). The appellant is eligible for MassHealth CommonHealth as a working disabled adult with a monthly premium of \$9.00. (Testimony). The appellant had been eligible for CommonHealth when she was under [REDACTED] years old, and this is the appellant's first approval after the age of [REDACTED] (Testimony). Due to a change in MassHealth policy, however, the appellant is no longer eligible for CommonHealth with the Medicare Savings Program (MSP), which means that MassHealth no longer pays the appellant's Medicare premium. (Testimony). CommonHealth with MSP is only available to CommonHealth recipients who have modified adjusted gross income that is between 133% and 135% of the FPL. (Testimony). The MassHealth representative stated that the policy was contained in Eligibility Operations Memo (EOM) 23-04, a copy of which she forwarded to the hearing officer. (Testimony; Ex. 6).

The appellant testified to the following. The appellant confirmed that she was not contesting the CommonHealth premium. (Testimony). The appellant acknowledged that her Social Security increased to \$1,700 a month recently. (Testimony). The appellant previously understood that her Medicare and MassHealth costs would remain stable, with MassHealth requiring only a \$9.00 monthly premium payment. (Testimony). The appellant was upset by the loss of the Buy-In benefit she was receiving because that meant that the increase in her Social Security income was immediately offset by the fact that her Medicare Premium of \$174.70 will be taken out of it. (Testimony). The appellant stated that she also has other domestic costs which are increasing. (Testimony). The appellant stated that she appreciated the MassHealth representative's explanation. (Testimony).

The Premium Billing representative stated that though the appellant was not contesting the imposition of premiums, MassHealth has not billed the appellant for any premiums since [REDACTED] (Testimony). She also stated that the appellant has reliably paid the premiums when MassHealth has billed them. (Testimony).

## Findings of Fact

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

1. The appellant is a community resident living in a household of one who is over [REDACTED] years old. (Testimony).
2. MassHealth has determined that the appellant is disabled. (Testimony).
3. The appellant's GMI is \$1,807 consisting of \$1,767 from Social Security and \$40 that she earns as a working disabled individual. (Testimony).
4. After subtracting five percentage points from this total, the appellant's countable income is \$1,744.25, which places her at 138.98% of the FPL. (Testimony).
5. The appellant is eligible for MassHealth CommonHealth as a working disabled adult with a monthly premium of \$9.00. (Testimony).
6. The appellant had been eligible for CommonHealth when she was under [REDACTED] years old, and this is the appellant's first approval after the age of [REDACTED] (Testimony).
7. Previously the appellant received MSP as part of her CommonHealth. (Testimony).
8. Due to a change in policy, CommonHealth with MSP is only available to CommonHealth recipients who have modified adjusted gross income that is between 133% and 135% of the FPL. (Testimony; Ex. 6).
9. The appellant was not contesting the imposition of the \$9.00 monthly CommonHealth premium (Testimony).
10. MassHealth has not billed the appellant for the premium since [REDACTED] (Testimony).
11. The appellant does not owe any outstanding CommonHealth premiums. (Testimony).

## **Analysis and Conclusions of Law**

MassHealth CommonHealth for working disabled adults is a type of MassHealth coverage that is available to community residents [REDACTED] years of age or older. (130 CMR 519.012(A)(1)). To be eligible for MassHealth CommonHealth as a working disabled adult over the age of [REDACTED] a MassHealth member must be employed at least 40 hours per month; be permanently and totally disabled; and be ineligible for MassHealth Standard. (130 CMR 505.004(B)(2),(3),(5)). Disabled working adults who are eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). For CommonHealth recipients who have modified adjusted gross income that is less than or equal to 135% of the FPL, MassHealth will also pay the cost of their monthly Medicare Part B premium in accordance with the regulations for the

Medicare Savings Program<sup>1</sup>. (130 CMR 505.004(L); EOM 23-04).

Financial eligibility for all MassHealth CommonHealth members, including those who are ■ years old or older, is determined using the financial eligibility regulations for individuals who are younger than ■ years old and not institutionalized at 130 CMR 506.000 rather than the financial eligibility regulations for persons who are institutionalized, ■ years of age or older, or who would be institutionalized without community-based services at 130 CMR 520.000 (130 CMR 519.012(C)).

Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules is determined by comparing the sum of all countable income, less deductions for the individual's household with the applicable income standard for the specific coverage type. (130 CMR 506.007(A)). MassHealth will construct a household 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. (130 CMR 506.007(A)(1)). 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 household. Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007(A)(2)).

A household's countable income is the sum of the gross 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. (130 CMR 506.007(A)(2)(a)). Countable income includes earned income and unearned income less deductions. (130 CMR 506.007(A)(2)(b)). Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions and may include wages, salaries, tips, commissions, and bonuses. (130 CMR 506.003(A)(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 and includes, 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 deducted in the previous year, and gross gambling income. (130 CMR 506.003(B)).

Once MassHealth determines a household's countable income, it then determines what percentage of the federal poverty level that income is and subtracts five percentage points from that number. (130 CMR 506.007(A)(3)). This adjusted income is then compared to the federal poverty level to determine the individual's eligibility. (Id.).

The appellant meets all the requirements for receiving MassHealth CommonHealth as a working disabled individual who is over the age of ■ years old. There is no financial eligibility requirement for CommonHealth, though MassHealth does use an individual's income to determine what, if any, premium they must pay. (See 130 506.011). In this instance, the appellant is not contesting the

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<sup>1</sup> See 130 CMR 519.010 (MSP-Qualified Medicare Beneficiaries (QMB)) and 519.010 (MSP - Specified Low Income Medicare Beneficiaries (SLIMB) and Qualifying Individuals (QI)).

calculation of her premium or her obligation to pay that premium. The appellant is contesting the loss of the MSP benefit that she previously had as part of her CommonHealth. The appellant receives \$1,767 per month from Social Security. Additionally, the appellant earns \$40 per month as a working disabled individual. The appellant's GMI is therefore \$1,807, which is equal to 143.98% of the FPL for a household of one. After deducting five percentage points from this raw figure, the appellant's countable income is equal to 138.98% of the FPL. Since this countable income exceeds 135% of the FPL, the appellant is not eligible to receive the Medicare Savings Program as part of her CommonHealth coverage at this time.

For that reason, the appeal must be 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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Scott Bernard  
Hearing Officer  
Board of Hearings

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

Maximus Premium Billing, Attn: Karishma Raja, 1 Enterprise Drive, Suite 310, Quincy, MA 021691