

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409223
Decision Date:	9/4/2024	Hearing Date:	07/18/2024
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Christine Holmes, Quincy MEC
Carmen Fabery, Premium Billing

Interpreter:



*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:	Eligibility; Over Income; Under 65
Decision Date:	9/4/2024	Hearing Date:	07/18/2024
MassHealth's Rep.:	Christine Holmes Carmen Fabery	Appellant's Rep.:	Pro se
Hearing Location:	Remote (video and phone)	Aid Pending:	No

Authority [HERE](#)

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 30, 2024, MassHealth notified appellant they were changing his health benefits from MassHealth Standard to MassHealth CommonHealth because he was over income. (Ex. 1). The appellant filed this appeal in a timely manner on June 11, 2024. (Ex. 2). Scope and amount of assistance is valid grounds for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth changed appellant's benefit from Standard to CommonHealth.

Issue

Was MassHealth Correct in changing appellant's benefit from Standard to CommonHealth due to being over income.

Summary of Evidence

Appellant and the MassHealth worker (worker) appeared via Teams video. A Premium Billing representative appeared via Teams voice only. The worker stated appellant completed an annual renewal by phone and this prompted a new determination. He was previously eligible for MassHealth Standard but now was eligible for MassHealth CommonHealth. She stated appellant was a household of 1, under 65 and disabled. Appellant's monthly income was \$3,105 from Social Security.¹ (Testimony).

The Premium Billing representative stated appellant was approved for CommonHealth on May 30, 2024 with a monthly premium of \$46.80 beginning in June 2024. She testified appellant was billed the monthly premium for June and July 2024 and he has a past due balance of \$93.60 due on the account. (Testimony).

Appellant stated he did complete the application on May 30, 2024 and confirmed his monthly income. He testified he is on Medicare and MassHealth, using the latter as his secondary insurance. He stated he has paid a lot of money into the system and became disabled in his late 50's.

Findings of Fact

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

1. Appellant is a disabled adult under the age of 65 who resides in a household of one. (Testimony).
2. On May 30, 2024, appellant completed an annual renewal, leading to a redetermination of his eligibility. (Testimony).
3. On May 30, 2024, MassHealth issued a notice downgrading the benefits from MassHealth Standard to MassHealth CommonHealth and imposed a \$46.80 monthly premium based on the appellant's monthly income. (Testimony; Ex. 1).
4. Appellant filed a timely notice of appeal on June 11, 2024. (Ex. 2).
5. Appellant has a monthly income of \$3,105.00. (Testimony).
6. Appellant has Medicare. (Appellant Testimony).

Analysis and Conclusions of Law

¹ Appellant stated it was Social Security Disability Insurance.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). Moreover, "[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings." Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983).

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a particular 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) *Standard* - for pregnant women, 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 members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) *CommonHealth* - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) *CarePlus* - for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) *Family Assistance* - for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) *Small Business Employee Premium Assistance* - for adults or young adults who
 - (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
 - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
 - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) *Limited* - for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) *Senior Buy-In and Buy-In* - for certain Medicare beneficiaries.

130 CMR 505.001(A).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. In this case, as a disabled individual, the appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether he meets the income requirements to qualify.

A disabled individual is financially eligible for MassHealth Standard if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.” 130 CMR 505.002(C)(1)(a). To determine financial eligibility pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

(1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists of

- (a) the taxpayer; including his or her spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer’s spouse, if living with him or her regardless of filing status;
- (c) all persons the taxpayer expects to claim as tax dependents; and
- (d) if any woman described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

Here, the appellant does not dispute that he resides in a household of one. Based on 2024 MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level equates to a monthly income of \$1,670.00 for a household of one. (See *chart* at <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines-0/download>).

MassHealth determines an applicant’s modified adjusted gross income (MAGI) by taking 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), less deductions described in 130 CMR 506.003(D). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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(C). Income of all the household members forms the basis for establishing an individual’s eligibility. 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(K).

(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. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. 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.²

(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) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of

² 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 1) is \$62.75 per month.

eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

Per 130 CMR 506.003(A), countable income includes, in relevant part, “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.”

In this case, MassHealth determined, and the appellant agrees, that his monthly income is \$3,105. As that amount exceeds 133% of the federal poverty level by the 2024 standards, appellant is not eligible for MassHealth Standard benefits. Thus, I find no error in MassHealth’s decision to downgrade his benefits to MassHealth CommonHealth.

The question remains, however, as to whether his premium was properly calculated.

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 (PBFGB) rules as described in 130 CMR 506.011(A).

(A) Premium Billing Family Groups.

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

(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		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150% FPL start at \$15	Add \$5 for each additional 10% FPL	\$15 - \$35
Above 200% FPL start at \$40	Add \$8 for each additional 10% FPL	\$40 - \$192
Above 400% FPL start at \$202	Add \$10 for each additional 10% FPL	\$202 - \$392
Above 600% FPL start at \$404	Add \$12 for each additional 10% FPL	\$404 - \$632
Above 800% FPL start at \$646	Add \$14 for each additional 10% FPL	\$646 - \$912
Above 1,000% FPL start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

The worker testified appellant's FPL is 242.41%. Based on the above chart, appellant's monthly premium would be \$40 plus \$8, plus \$8, plus \$8 plus \$8, totaling \$72 a month. However, appellant has Medicare.

(c) The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided as follows. A lower supplemental premium is charged to members who have health insurance to which the MassHealth agency does not contribute. Members receiving a premium assistance payment from the MassHealth agency are not eligible for the supplemental premium rate.

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

Based on the above chart, 65% of \$72 is \$46.80. MassHealth correctly calculated appellant's monthly premium.

For the foregoing reasons, the 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.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171