

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409973
Decision Date:	9/9/2024	Hearing Date:	08/08/2024
Hearing Officer:	Casey Groff		

Appearance for Appellant:

Pro se



Appearance for MassHealth:

Ana Duverge-Roy, Springfield 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

Appeal Decision:	Denied	Issue:	Eligibility; Under 65; Income; Premium Billing
Decision Date:	9/9/2024	Hearing Date:	08/08/2024
MassHealth's Rep.:	Ana Duverge-Roy; Carmen Fabery	Appellant's Rep.:	Pro se; Sister
Hearing Location:	Board of Hearings, Remote	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

Through a notice dated 5/15/24, MassHealth informed Appellant that it was changing his benefit from Standard to CommonHealth, starting 5/5/24. See Exh. 1. Appellant filed this appeal in a timely manner on 6/26/24. See Exh. 2 and 130 CMR 610.015(B). Terminating a benefit and/or limiting the scope of assistance are valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth ended Appellant's Standard benefit and approved him for CommonHealth effective 5/5/24 with an assessed \$18 monthly premium.

Issue

The appeal issues are (1) whether MassHealth was correct in determining that the most comprehensive benefit for which Appellant was eligible was CommonHealth and (2) whether it correctly charged him an \$18 monthly premium for this benefit.

Summary of Evidence

A MassHealth eligibility representative appeared at hearing and testified that Appellant is under the age of 65 with a verified disability and lives in a household size of one (1). On 5/15/24, MassHealth processed an application from Appellant seeking continued MassHealth benefits. At this time, Appellant was receiving MassHealth Standard with Buy-In, which had been managed in an older case management system. In the Spring of 2024, in an effort to move Appellant's case to the appropriate HIX case management system, MassHealth notified Appellant that he needed to complete a renewal and provide updated information. In submitting the application, Appellant provided current bi-weekly paystubs from his job showing that he made approximately \$620 bi-weekly. MassHealth also retrieved information showing that Appellant receives \$1,003 per-month in social security disability income (SSDI).

Initially, when processing the application, MassHealth only had Appellant's earned income figures, which prompted a 5/15/24 approval notice for MassHealth Standard. That same day, however, MassHealth entered Appellant's SSDI income, which increased his household income to correctly reflect a federal poverty level (FPL) of 181.11%. In doing so, a second 5/15/24 eligibility notice was generated, informing Appellant that he was approved for CommonHealth effective 5/5/24 and that he would be responsible for a monthly fee of \$18 with the first payment starting June of 2024. See Exh. 1.

Appellant appealed the 5/15/24 CommonHealth approval notice. See Exh. 2. Prior to hearing, Appellant submitted updated paystubs from June, reflecting gross income of \$620.49 for bi-weekly pay-period ending 6/9/24 and a gross earned income of \$617 for bi-weekly pay period ending 6/23/24. As these amounts were similar to previously reported earned income, it did not have an impact on his eligibility. However, the update to the system prompted MassHealth to issue a second CommonHealth approval notice dated 6/27/24 with the same premium amount.

A MassHealth Premium Billing representative testified that in accordance with Appellant's approval for CommonHealth, MassHealth issued premium bills to Appellant for \$18.00 for the months of June and July 2024. Appellant has a total balance of \$36.00 due on the account.

Appellant and his sister/power of attorney ("representative") appeared at hearing by telephone and explained that they were disputing the 5/15/24 determination on the basis that Appellant should remain eligible for his prior Standard benefit. Specifically, Appellant's representative argued that MassHealth made an error in calculating Appellant's income causing his case to inaccurately reflect that he is at 181.11% of the FPL. Prior to hearing, Appellant submitted a total of four paystubs from Appellant's employment reflecting an average bi-weekly income of \$620. Appellant argued that this amounted to a total average monthly income of \$1,240, which equates to approximate annual income of \$14,880. Appellant further asserted that this annual income is less than the 2024 income limit of \$15,060 for an individual at 133% of the FPL. The

representative further asserted that MassHealth erred by including Appellant's social security benefit as countable income. Appellant's representative referred to the language included in the 5/15/24 notice, which explained that MassHealth decides income by counting mostly "income taxable by the IRS." Exh. 1. Appellant's social security benefit is not taxable so it should not be counted. Appellant and his representative did not dispute the actual income figures cited by MassHealth; but rather, argued that it was a mistake to include his social security benefit in calculating financial eligibility. They further asserted that Appellant has been on Standard for years and there has been no significant changes in his income and this never before prevented him from getting Standard.

Findings of Fact

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

1. Appellant is between the ages of 21 and 65; has a verified disability; and lives in a household size of one (1).
2. On 5/15/24, MassHealth processed an application from Appellant which included updated paystubs showing that he receives gross earned income of approximately \$620 every two-weeks.
3. Appellant receives \$1,003 per-month in SSDI payments.
4. Appellant has household income that places him at 181.11% of the FPL.
5. On 5/15/24, MassHealth notified Appellant that he no longer qualified for his prior Standard with Buy-In benefit and that his coverage was changing to CommonHealth effective 5/5/24 with a monthly premium of \$18 starting June of 2024.
6. Appellant earned income of \$620.49 for bi-weekly pay-period ending 6/9/24 and \$617 for bi-weekly pay period ending 6/23/24, for a total income of \$1,237.49 over the cumulative four-week period.
7. Through his employment, Appellant receives an average gross weekly income of \$309.37 ($\$1,237.49 / 4$).
8. Appellant was billed \$18 for the June and July premiums, and as of the hearing date had a total outstanding balance of \$36.00 due on the account.

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly determined that Appellant no longer qualified for MassHealth Standard because his countable income exceeded the program limit; and if so, whether MassHealth correctly changed Appellant's benefit to CommonHealth with an \$18 premium.

To establish eligibility for MassHealth, applicants must meet both the categorical *and* financial requirements. It is undisputed that Appellant is categorically eligible for MassHealth Standard and CommonHealth based on his verified disability. To be financially eligible for MassHealth Standard, individuals under the age of 65 must have a modified adjusted gross income (MAGI) less than or equal to 133% of the FPL. See 130 CMR 505.002(E). For an individual in a household size of one (1), that limit is \$1,670 per-month. See 2024 MassHealth Income Standards & Federal Poverty Guidelines.

A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household (with exceptions of children and tax dependents not expected to file tax returns). See 130 CMR 506.007(A)(2)(a). As Appellant is in a household size of one (1), MassHealth looks only to Appellant's income in determining his household MAGI. Countable household income includes both earned and unearned income less deductions described in 130 CMR 506.003(D).¹ See 130 CMR 506.003. MassHealth describes countable unearned income, as follows:

(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.***

See 130 CMR 506.003 (emphasis added).

In disputing the 5/15/24 eligibility determination, Appellant argues that because MassHealth counts "taxable" unearned income, Appellant's non-taxable social security benefit should not

¹ Under federal law, the following deductions are allowed when calculating MAGI countable income: (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...; (9) individual retirement account (IRA); (10) student loan interest; (11) scholarships, awards, or fellowships used solely for educational purposes; (12) and 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. See 130 CMR 506.003(D). There is no evidence that any of these deductions apply in this case.

have been included in determining his financial eligibility. While the regulation's reference to counting "total taxable income" does create ambiguity on this issue, the following provision dispels any such confusion through explicitly listing "social security benefits" as an example of countable unearned income. See 130 CMR 506.003. Moreover, the type of social security benefit Appellant receives – SSDI – is not included as one of the enumerated income sources that MassHealth deems "non-countable." Non-countable income consists of the following:

- (A) TAFDC, EAEDC, or SSI income;
- (B) sheltered workshop earnings;
- (C) federal veteran benefits that are not taxable in accordance with IRS rules;
- (D) income-in-kind;
- (E) roomer and boarder income derived from persons residing in the applicant's or member's principal place of residence;
- (F) most workers' compensation income;
- (G) pretax contributions to salary reduction plans for payment of dependent care, transportation, and certain health expenses within allowable limits;
- (H) child support received;
- (I) taxable amounts received as a lump sum, except in the month received;

130 CMR 506.004.

While MassHealth deems Supplemental Security Income (SSI) to be noncountable income, it does not exclude from counting other types of social security benefits, including SSDI, retirement income, or survivors' benefits. This is consistent with the federal definition of MAGI, which MassHealth has adopted (with exceptions) ² and which is defined by the Internal Revenue Code as the "adjusted gross income increased by - (iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d)) which is not included in gross income..." 26 U.S. Code § 36B. As such, MassHealth appropriately counted both Appellant's earned income and unearned SSDI in determining his financial eligibility.

At hearing, Appellant submitted paystubs showing that he earns an average weekly gross income of \$309.37 per-week. Multiplying this by 4.333, equates to an average monthly earned income of \$1,340.51. See 130 CMR 506.007(A)(c).³ In addition, the evidence shows Appellant receives SSDI in the amount of \$1,003 per-month. The combined total of both Appellant's earned and

² MassHealth defines MAGI in accordance with 36(B)(d)(2) of the Internal Revenue Code with the following exceptions: (1) an amount received as a lump sum only counts as income in the month received; (2) scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income; and (3) certain taxable income received by American Indians and Alaska Natives is excluded from income as described in 42 CFR § 435.603(e). See 130 CMR 505.001.

³ This regulation states that "in determining monthly income, the MassHealth agency multiplies [the] average weekly income by 4.333.

unearned income is \$2,343.00 per-month and places him at 181% of the FPL.⁴ As Appellant's countable income places him above 133% of the FPL, he is not financially eligible for Standard.

As an individual with a verified disability whose income exceeds the income limit to qualify for Standard, MassHealth appropriately determined that the next-most comprehensive benefit for which Appellant is eligible was CommonHealth. See 130 CMR 501.003(A); see also 130 CMR 505.001(A)(2) ("CommonHealth [is a MassHealth coverage-type] for disabled adults...who are not eligible for MassHealth Standard").

In conjunction with this determination, MassHealth appropriately assessed Appellant a monthly premium of \$18. See 130 CMR 505.004(I); see also 130 CMR 506.011(B)(2). Pursuant to eligibility regulations, MassHealth charges monthly premiums to certain⁵ CommonHealth members with income above 150% of the FPL. See 130 CMR 506.011. These premiums are calculated "based on a member's household MAGI" among other factors. Id. The full premium for CommonHealth adults between 180% and 189% of the FPL is \$30 per-month. See 130 CMR 506.011(B)(2)(b). Because Appellant has health insurance to which MassHealth does not contribute, i.e. Medicare, he is subject to a lower premium in accordance with MassHealth's "supplemental premium formula" chart. See 130 CMR 506.011(B)(2)(c). The supplemental rate for individuals between 150% and 200% of the FPL, is 60% of the amount they would have to pay for the "full premium." Id. Based on Appellant's FPL, MassHealth correctly calculated a supplemental premium of \$18 per-month ($30 \times .60 = 18$).

Appellant did not demonstrate that MassHealth erred in determining that CommonHealth is the most comprehensive coverage-type for which Appellant is eligible, and that, to receive this benefit, he is responsible for a premium of \$18 per-month. See 130 CMR 501.003(A).

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

⁴ Appellant's total income actually places him at 186% of the FPL, but MassHealth subtracts five percentage points from the current household FPL. See 130 CMR 506.007(A)(2)(c).

⁵ There is no evidence that Appellant qualifies for an exemption to the premium requirement. 130 CMR 506.011(J).

receipt of this decision.

Casey Groff
Hearing Officer
Board of Hearings

[REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

MassHealth Representative: Premium Billing