

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part/ Denied in part	<b>Appeal Number:</b>	2411178
<b>Decision Date:</b>	10/7/2024	<b>Hearing Dates:</b>	08/22/2024 09/26/2024
<b>Hearing Officer:</b>	Thomas J. Goode	<b>Record Open to:</b>	09/30/2024

**Appearance for Appellant:**

Pro se

**Appearances for MassHealth:**

08/22/2024: Nancy Derisma, Charlestown MEC,  
Carmen Fabery, Premium Billing

09/26/2024: Jacob Sommer, Charlestown MEC,  
Carmen Fabery, Premium Billing  
Roxanne Noriega, Premium Assistance  
Eileen Cynamon, Disability Evaluation Services



*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>	Approved in part/ Denied in part	<b>Issue:</b>	Coverage start date
<b>Decision Date:</b>	10/7/2024	<b>Hearing Dates:</b>	08/22/2024 09/26/2024
<b>MassHealth's Reps.:</b>	08/22/2024: Nancy Derisma, Charlestown MEC, Carmen Fabery, Premium Billing  09/26/2024: Jacob Sommer, Charlestown MEC, Carmen Fabery, Premium Billing Roxanne Noriega, Premium Assistance  Eileen Cynamon, Disability Evaluation Services	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	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

Through a notice dated July 3, 2024, MassHealth notified Appellant that she qualified for more benefits because of a change in circumstances resulting in approval for CommonHealth effective June 23, 2024 with a \$15 monthly premium bill (130 CMR 505.004, 502.006 and Exhibit 1). Appellant filed this appeal in a timely manner on July 18, 2024 (130 CMR 610.015(B) and Exhibit 2). A determination of an eligibility start date is valid grounds for appeal (130 CMR 610.032).

## **Action Taken by MassHealth**

MassHealth notified Appellant that she qualified for more benefits because of a change in circumstances resulting in approval for CommonHealth with a coverage effective date of June 23, 2024, with a \$15 monthly premium.

## **Issue**

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.004, 502.006, in determining a June 23, 2024, CommonHealth coverage effective date with a \$15 monthly premium.

## **Summary of Evidence**

At a hearing held on August 22, 2024, the MassHealth representative testified that MassHealth notified Appellant on July 3, 2024, that she qualified for more benefits because of a change in circumstances resulting in approval for CommonHealth with a coverage effective date of June 23, 2024, with a \$15 monthly premium. Appellant is a disabled individual living with her spouse in a household size of 2. Appellant's household income consists of earned income by her spouse totaling \$3,051.24 per month. Appellant is enrolled in employer sponsored insurance through her spouse's employer. Because household income exceeds 133% of the federal poverty level for a household size of 2 (\$2,266 a month), Appellant was not financially eligible for MassHealth Standard but was determined eligible for CommonHealth with a coverage start date effective June 23, 2024, and a \$15 per month premium due; however, effective August 15, 2024, the premium was reduced to \$0 because Premium Assistance was started effective June 23, 2024. The hearing record remained open for MassHealth to review the determination of the June 23, 2024, coverage effective date. MassHealth submitted a response stating that the coverage effective date was determined based on a completed disability application dated July 3, 2024, with coverage beginning 10 days prior. MassHealth noted that on April 3, 2024, an incomplete application was submitted to Disability Evaluation Services (DES), which precluded an earlier start date (Exhibit 10).

Appellant asserted that the coverage start date should be retroactive to December 2023 when she first submitted a disability supplement. Appellant testified that she was receiving MassHealth CarePlus and Premium Assistance which terminated in December 2023. She noted that she and her spouse had been living in a household size of 3 with her son who is disabled, and no longer lives in the household. Appellant had not been previously determined disabled by MassHealth or Social Security when she submitted a disability supplement to DES in December 2023. She stated that she was told that MassHealth coverage would be retroactive to December 2023 after MassHealth completed the process of finding her disabled.

At the reconvened hearing held on September 26, 2024, representatives from DES, Premium Assistance, Premium Billing, and the Charlestown MassHealth Enrollment Center appeared. The MassHealth representative testified that Appellant was receiving CarePlus coverage until December 19, 2023. Coverage was terminated by notice dated December 5, 2023, because Appellant did not provide proof of income within specified time frames (Exhibit 8). MassHealth testified that paystubs were required to verify income in December 2023, and the paystubs sent by Appellant in September 2023 were unacceptable proof of income because they did not sufficiently identify whose income was verified. Premium Assistance payments also terminated in December 2023. On December 14, 2023, Appellant received notice that she was not MassHealth eligible and was eligible only for the Health Safety Net (Exhibit 9). The notices dated December 5, 2023, and December 14, 2023, were not appealed by Appellant. Appellant remained enrolled in ESI available through her spouse, but was not opened on MassHealth until the July 3, 2024, notice informed her of CommonHealth eligibility and a June 23, 2024, coverage start date.

The DES representative testified that DES records show that Appellant requested a disability supplement in September 2023 which was sent to Appellant on September 5, 2023. The case was closed on December 4, 2023, because Appellant did not return the completed supplement. On December 14, 2023, Appellant called DES to inquire about the status, and was informed a supplement was not received by DES, and another supplement was mailed (Exhibit 6, p. 22). Appellant submitted a disability supplement to DES on February 22, 2024, and DES determined that necessary medical release forms were incomplete. On February 26, 2024, DES mailed a letter to Appellant requesting that she complete the medical records release forms. A second submission was received on March 5, 2024; and DES sent a letter to Appellant on April 3, 2024, informing her that the medical records release forms were incomplete. Appellant phoned DES on April 8, 2024, and the medical records release issues were resolved to Appellant's favor. It is noted in DES records that the supplement was complete on April 3, 2024 (Exhibit 6, p. 18).<sup>1</sup> The DES representative testified that disability determinations take between 60 and 90 days to complete once the disability supplement is completed. DES determined by notice dated July 3, 2024, that Appellant is disabled with a disability onset date of October 2, 2023.

Post hearing, the MassHealth representative emailed the hearing officer stating that the coverage start date should be adjusted to the end of March 2024, based on a completed DES supplement dated in early April 2024 (Exhibit 10).

Appellant testified that when she submitted the disability supplement, she was told by MassHealth that the coverage eligibility date would be retroactive to December 2023 and there would be no gaps in coverage or Premium Assistance payments. Appellant asserted that she has been disabled for several years as shown by the disability onset date, but did not need to undertake the disability

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<sup>1</sup> DES notes dated April 8, 2024, record that "Client called...[s]tated that we should have release for [REDACTED] Reviewed documents and client was correct. Release for [REDACTED] is usable...[w]ill have case reopened. Operations notified."

evaluation process because her disabled son was a household member but has since moved from the home. Appellant testified that paystubs submitted to MassHealth in December 2023 should have been accepted as timely proof of income, and CarePlus coverage and Premium Assistance payments should not have been terminated. Appellant stated that MassHealth coverage is supplemental to ESI through her spouse and covers co-payments that the ESI does not cover.

The Premium Assistance and Premium Billing representatives waived the \$15 premium amount due bringing Appellant's balance owed to \$0 and testified that there would be no premium assessed going forward.

## **Findings of Fact**

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

1. MassHealth notified Appellant on July 3, 2024, that she qualified for more benefits because of a change in circumstances resulting in approval for CommonHealth with a coverage effective date of June 23, 2024 with a \$15 monthly premium.
2. Appellant is a disabled individual living with her spouse in a household size of 2.
3. Appellant's household income consists of earned income by her spouse totaling \$3,051.24 per month.
4. Household income equates to 179.13% of the federal poverty level for a household of 2.
5. Appellant is enrolled in employer sponsored insurance (ESI) through her spouse's employer.
6. 133% of the federal poverty level for a household size of 2 is \$2,266.
7. Appellant was receiving CarePlus coverage until December 19, 2023. Coverage was terminated by notice dated December 5, 2023, because Appellant did not provide proof of income within specified time frames.
8. Paystubs were required to verify income in December 2023, and the paystubs sent by Appellant in September 2023 were unacceptable proof of income because they did not sufficiently identify whose income was verified.
9. Premium Assistance payments terminated in December 2023.
10. On December 14, 2023, Appellant received notice that she was not MassHealth eligible

and was only eligible for the Health Safety Net.

11. The notices dated December 5, 2023, and December 14, 2023, were not appealed by Appellant.
12. Appellant remained enrolled in ESI available through her spouse, but was not opened on MassHealth until the July 3, 2024, notice informed her of CommonHealth eligibility effective June 23, 2024.
13. DES records show that Appellant requested a disability supplement in September 2023 which was sent to Appellant on September 5, 2023. The case was closed on December 4, 2023, because Appellant did not return the completed supplement.
14. On December 14, 2023, Appellant called DES to inquire about the status of her disability application, and was informed a supplement was not received by DES, and another supplement was mailed.
15. Appellant submitted a disability supplement to DES on February 22, 2024, and DES determined that necessary medical release forms were incomplete.
16. On February 26, 2024, DES mailed a letter to Appellant requesting that she complete the medical records release forms.
17. A second submission was received on March 5, 2024, and DES sent a letter to Appellant on April 3, 2024, informing her that the medical records release forms were incomplete.
18. Appellant phoned DES on April 8, 2024, and the medical records release issues were resolved to Appellant's favor. The disability supplement was complete on April 3, 2024.
19. DES determined by notice dated July 3, 2024, that Appellant is disabled.
20. DES established a disability onset date of October 2, 2023.
21. The \$15 premium amount due was waived, and Appellant's balance due was reduced to \$0.

## **Analysis and Conclusions of Law**

Appellant was receiving CarePlus coverage which terminated on December 19, 2023 pursuant to MassHealth notice dated December 5, 2023 because Appellant did not provide proof of income within specified time frames. Paystubs were required to verify income, and the paystubs sent by

Appellant in September 2023 were unacceptable proof of income because they did not sufficiently identify whose income was verified. Premium Assistance payments also terminated in December 2023. On December 14, 2023, Appellant received notice that she was no longer MassHealth eligible and was eligible only for the Health Safety Net. The notices dated December 5, 2023, and December 14, 2023, were not appealed by Appellant. An appellant has 60 days from the date of notice to file a timely appeal. Appellant's July 18, 2024, appeal is not timely for notices dated December, 2023. Therefore, the termination of coverage in December 2023 cannot be addressed here based on an appeal of a July 3, 2024, notice of eligibility for CommonHealth coverage.<sup>2</sup>

Further, Appellant does not challenge the determination that she is eligible for MassHealth CommonHealth rather than MassHealth Standard. Appellant's appeal is based on the June 23, 2024, coverage start date determined by MassHealth by notice dated July 3, 2024.

Regulation 130 CMR 505.004(M) directs the following in determining the medical coverage date for CommonHealth:

(M) Medical Coverage Date.

(1) The medical coverage date for MassHealth CommonHealth is described at 130 CMR 502.006: *Coverage Dates*, except as described at 130 CMR 505.004(M)(2) and (3).

(2) Persons described in 130 CMR 505.004(C) who have been notified by the MassHealth agency that they must meet a one-time deductible have their medical coverage date established in accordance with 130 CMR 506.009(E): *Notification of the Deductible*.

(3) Provisional eligibility is described in 130 CMR 502.003(E): *Provisional Eligibility*.<sup>3</sup>

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<sup>2</sup> Appeals must be filed within 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action (130 CMR 610.015(B)).

<sup>3</sup> See 130 CMR 502.003(E): Provisional Eligibility. The MassHealth agency will provide benefits while the applicant provides the MassHealth agency outstanding corroborative information in accordance with 130 CMR 502.003(D)(1), except for individuals described at 130 CMR 502.003(E)(2). Except as further set forth below, the MassHealth agency will accept self-attestation for all eligibility factors other than citizenship and immigration status and make a provisional eligibility determination as if the applicant had supplied the information. MassHealth applicants can receive only one provisional eligibility approval during a 12-month period, unless the individual is pregnant. MassHealth members are required to enroll in managed care during the provisional eligibility period, if enrollment is otherwise required as described in 130 CMR 508.004: *Managed Care Organizations (MCOs)*. MassHealth members who have been assessed a premium are subject to payment of premiums during the provisional eligibility period. Premium assistance is not awarded during the provisional eligibility period. It is only provided when all corroborative information has been received and the health insurance investigation is complete, as described in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*. Provisional eligibility is subject to the following limitations.

(1) Coverage Date.

(a) Coverage for individuals who have been determined provisionally eligible begins 10 days before the date the application is received.

Regulation 130 CMR 502.006(B) directs with relevant emphasis added:

(B) Coverage Dates for Existing Members Who Have a Change in Benefits. The date of coverage for existing members whose MassHealth coverage type changes due to a change in circumstances are described in 130 CMR 502.006(B)(1) through (4).

(1) For existing members who are pregnant or younger than 19 years of age, when an eligibility determination results in a more comprehensive benefit, except as described in 502.006(C)

(a) if covered medical services were received during such period, and the individual would have been eligible at the time services were provided, the start date of the new coverage may be retroactive to the first day of the third calendar month prior to

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(b) if covered medical services were not received during such period, or the individual would not have been eligible at the time services were provided, the start date of the new coverage is ten days prior to

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not

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(b) If all required verifications are received before the end of the provisional eligibility period, retroactive coverage is provided for the verified coverage type in accordance with 130 CMR 505:000: *Health Care Reform: MassHealth: Coverage Types*.

(2) Limitations. Provisional eligibility is subject to the following limitations.

(a) Provisional eligibility is not available for adults 21 years of age or older who have not verified all income in their MAGI household, as described at 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*, unless the individual is

1. pregnant and has attested MAGI income at or below 200% of the federal poverty level (FPL);
2. 21 through 64 years of age and HIV-positive with attested MAGI income at or below 200% of the FPL; or
3. in active treatment for breast or cervical cancer and is younger than 65 years old with attested MAGI income at or below 250% of the FPL.

(b) **The MassHealth agency will not accept self-attestation of disability. Disability must be verified as described in 130 CMR 505.002(E)(1): *Disabled Adults*. Eligibility for applicants who apply for benefits on the basis of disability will be determined as if they were not disabled until disability is verified as described in 130 CMR 505.002(E)(1): *Disabled Adults*.** (emphasis added)

(c) A member's coverage type will not be redetermined during the provisional eligibility period, except that members granted provisional eligibility who attest to pregnancy will be enrolled in MassHealth Standard.



result in request for verification; or

4. the date of the MassHealth agency's eligibility determination due to information in the member's case file;

**(2) for existing members not described in 130 CMR 502.006 (B)(1), when an eligibility determination results in a more comprehensive benefit, except as described at 130 CMR 502.006(C), the start date of the new coverage is ten days prior to**

**(a) the receipt of the requested verifications;**

**(b) the receipt date of the annual renewal;**

**(c) the date of the eligibility determination for reported changes that do not result in request for verification; or**

**(d) the date of the MassHealth agency's eligibility determination due to information in the member's case file;**

(3) for existing members whose eligibility determination results in a less comprehensive benefit, the end date of the existing coverage is no sooner than 14 days from the date of the notice unless the MassHealth member files an appeal in a timely manner and requests continued MassHealth benefits pending such an appeal or reinstatement of benefits as described at 130 CMR 610.036: *Continuation of Benefits Pending Appeal* and the start date of the new coverage is ten days prior to

(a) the receipt of the requested verifications;

(b) the receipt date of the annual renewal;

(c) the date of the eligibility determination for reported changes; or

(d) the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(4) for existing members, effective dates for changes in premium payments are described at 130 CMR 506.011(C).

Eligibility for applicants who apply for benefits on the basis of disability will be determined as if they were not disabled until disability is verified as described in 130 CMR 505.002(E)(1): *Disabled Adults*.<sup>4</sup> Therefore, because Appellant is an existing member whose eligibility was

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<sup>4</sup> See 130 CMR 505.002(E) Disabled Individuals.

(1) Disabled Adults. A disabled adult 21 through 64 years old or a disabled young adult 19 through 20 years old who does not meet the requirements described at 130 CMR 505.002(B)(3)(a)1. is eligible for MassHealth Standard coverage if they meet the following requirements:

(a) the individual is permanently and totally disabled as defined in 130 CMR 501.001: *Definition of Terms*;

(b) the modified adjusted gross income of the MassHealth Disabled Adult household as described in 130 CMR 506.002(C): *MassHealth Disabled Adult Household* is less than or equal to 133% of the federal poverty level (FPL), or the individual is eligible under section 1634 of the Social Security Act (42 U.S.C. § 1383c) as a disabled adult child or as a disabled widow or widower, or is eligible under the provisions of the Pickle Amendment as described at 130 CMR 519.003: *Pickle Amendment Cases*; (c) the individual is a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1):

determined on the basis of a disability after her CarePlus coverage terminated in December 2023, provisional eligibility does not apply, and 130 CMR 502.006(B)(2) directs that coverage will begin ten days prior to the date of receipt of all requested verifications or a reported change, except as specified in 130 CMR 502.003(D)(2)(d)<sup>5</sup> and 502.006(C).<sup>6</sup>

DES records show that Appellant requested a disability supplement in September 2023 which was sent to Appellant on September 5, 2023. The case was closed on December 4, 2023 because Appellant did not return the completed supplement. On December 14, 2023, Appellant called DES to inquire about the status of her disability application, and was informed a supplement was not received by DES, and another supplement was mailed. Appellant submitted a disability supplement to DES on February 22, 2024, and DES determined that necessary medical release forms were incomplete. On February 26, 2024, DES mailed a letter to Appellant requesting that

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*Qualified Noncitizens; and*

(d) the individual complies with 130 CMR 505.002(M).

(2) Determination of Disability. Disability is established by

(a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);

(b) a determination of disability by the SSA; or

(c) a determination of disability by the Disability Evaluation Services (DES).

(3) Extended MassHealth Eligibility. Disabled persons whose SSI disability assistance has been terminated and who are determined to be potentially eligible for MassHealth continue to receive MassHealth Standard until the MassHealth agency makes a determination of ineligibility.

<sup>5</sup> 130 CMR 502.003(D)(2)(d) addresses verifications not received within one year of receipt of the previous application or renewal form, and requires a new application to be completed, and does not apply here.

<sup>6</sup> 130 CMR 502.006 (C) Limitations. MassHealth coverage start dates are subject to the following limitations.

(1) The start date for Medicare premium payments for individuals determined eligible for MassHealth Standard, MassHealth CommonHealth, and MassHealth Medicare Savings Programs is described at 130 CMR 505.002(O), 505.004(L), and 505.007.

(2) The start date for Premium Assistance Payments for individuals eligible for MassHealth Standard, MassHealth CommonHealth, MassHealth Family Assistance, and MassHealth CarePlus is described at 130 CMR 506.012(F)(1)(d).

130 CMR (F)(1)(d) MassHealth Premium Payment Administration.

(1) Premium Assistance Payments.

(a) The MassHealth agency makes only one premium assistance payment per policy.

(b) Premium assistance payments are made directly each month to the policyholder.

(c) Proof of health insurance premium payments may be required.

(d) Premium assistance payments begin in the month of the MassHealth Premium Assistance eligibility determination or in the month that health insurance deductions begin, whichever is later.

(e) Each monthly premium assistance payment is for health insurance coverage in the following month.

(f) MassHealth reviews the cost effectiveness of the member's health insurance at least once every 12 months.

she complete the medical records release forms. A second submission was received on March 5, 2024, and DES sent a letter to Appellant on April 3, 2024, informing her that the medical records release forms were incomplete. Appellant phoned DES on April 8, 2024, and the medical records release issues were resolved to Appellant's favor, and the disability supplement was deemed to be complete on April 3, 2024. Pursuant to 130 CMR 505.004(M) and 130 CMR 502.006(B)(2)(a), the coverage start date for CommonHealth coverage is March 24, 2024, which is 10 days prior to the completed DES supplement.

Therefore, the appeal is APPROVED in that the correct medical coverage effective date is March 24, 2024. The appeal is DENIED in that the medical coverage effective date for CommonHealth cannot be backdated to December 2023.

## **Order for MassHealth**

Rescind the July 3, 2024, notice. Backdate the medical coverage effective date for CommonHealth coverage to March 24, 2024, calculate a \$0 premium, and adjust Premium Assistance payments accordingly.

## **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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc:

Appeals Coordinator: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

Premium Billing Unit

Premium Assistance Unit

Disability Evaluation Services