

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411192
Decision Date:	10/22/2024	Hearing Date:	08/19/2024
Hearing Officer:	Mariah Burns	Record Open to:	09/13/2024

Appearance for Appellant:



Appearance for MassHealth:

Simon Poon, Charlestown MassHealth  
Enrollment Center; Karishma Raja, Premium  
Billing Department



*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>	Under 65; Eligibility; Premium Billing
<b>Decision Date:</b>	10/22/2024	<b>Hearing Date:</b>	08/19/2024
<b>MassHealth's Rep.:</b>	Simon Poon, Karishma Raja	<b>Appellant's Rep.:</b>	██████
<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 2, 2024, MassHealth approved the appellant for MassHealth CommonHealth benefits and imposed a monthly premium of \$83.20. See 130 CMR 506.011(B)(2)(b) and Exhibit 1). The appellant filed this appeal in a timely manner on July 18, 2024. See 130 CMR 610.015(B) and Exhibit 2. Challenging the calculation of a monthly premium is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved the appellant for MassHealth CommonHealth benefits and imposed a monthly premium of \$83.20.

### Issue

The appeal issue is whether MassHealth correctly calculated the appellant's monthly premium.

## Summary of Evidence

The appellant is an adult under the age of 65 who resides in a household of one. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center and a worker from the MassHealth Premium Billing. Department. All parties appeared by telephone. The following is a summary of the testimony and evidence presented at the hearing:

The appellant has received MassHealth CommonHealth benefits since February 22, 2023. After renewing his application on or about February 21, 2024, MassHealth approved his CommonHealth coverage with a premium of \$62.40. On or about July 2, 2024, after an automatic computer match to federal data showed an increase to the appellant's income, MassHealth recalculated the appellant's premium to be \$83.20.

At the hearing, the MassHealth representative reported that the income on file for the appellant reflects a monthly pension benefit of \$1938.00 and monthly social security of \$2076.00. This amounts to a total monthly income of \$4014.00, which equates to 321.99% of the federal poverty level. Based on this amount, MassHealth imposed the monthly premium of \$83.20.

The appellant argued that he only receives \$1900.00 per month in social security after deducting his Medicare premium. He also reported that he pays his ex-spouse \$2000.00 per month in alimony. The appellant explained that he had no problem paying the \$62.40 per month premium, but did not understand why it increased to over \$80.00. The record was kept open to allow the appellant time to provide proof of his alimony payments. On August 29, 2024, the appellant provided a letter, presumably from his ex-spouse, and his social security benefit letter. The social security letter confirmed that his gross monthly benefit is \$2076.00, and that after his Medicare deduction, he receives \$1901.00 per month. Exhibit 6 at 3. The second letter stated as follows: "I verify that I receive and will continue to receive \$2000 (two thousand dollars) each month from [the appellant] to cover his living expense while he resides at [his address on file]." Exhibit 6 at 2.

MassHealth reported that it was unable to accept this letter as proof of alimony payments because it lacked any information from the Probate and Family Court and did not indicate when an alimony agreement was made.

## Findings of Fact

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

1. The appellant is an adult under the age of 65 who resides in a household of one and is currently receiving MassHealth CommonHealth benefits. Testimony, Exhibit 1, Exhibit 4.
2. Pursuant to a notice issued on February 21, 2024, the appellant was assessed a monthly

premium of \$62.40. Exhibit 5 at 10.

3. On July 2, 2024, after MassHealth conducted a periodic data match to federal information and learned of an increase to the appellant's income, the appellant received a notice informing him that his premium would be increasing to \$83.20. Exhibit 1.

4. The appellant receives \$1938.00 in monthly pension benefits and \$2076.00 in gross social security benefits. \$164.00 is deducted from his gross social security each month to cover the cost of his Medicare premium. Testimony, Exhibit 6 at 3.

5. During the record open letter, the appellant provided a letter, purportedly from his ex-spouse, which states: "I verify that I receive and will continue to receive \$2000 (two thousand dollars) each month from [the appellant] to cover his living expense while he resides at [his address on file]." Exhibit 6 at 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 particular MassHealth coverage type for individuals under the age of 65. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. Among those coverage types is MassHealth CommonHealth, which is for "for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard..." 130 CMR 505.001(A)(2).

Individuals eligible for MassHealth CommonHealth may be assessed a premium if their total household income exceeds certain limits. See 130 CMR 505.004(I). 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.

(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

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(B), countable income includes, in relevant part, unearned income “including, but 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.” Deductions to the calculation of MAGI income can be found at 130 CMR 506.003(D) and can include “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...”

As stated, *supra*, a monthly premium may be charged 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(B)(2)(b):

(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.

The regulation includes a formula for young adults and adults above 150% and children above 300% of the FPL. For households whose income exceeds 200%, the base premium is \$40.00 per month and is increased by \$8 for every 10% of the FPL the household income exceeds. 130 CMR 506.011(B)(2)(b).

An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” 130 CMR 610.085(A).

In this case, the MassHealth found, and the appellant agreed, that he receives \$1938.00 in monthly pension benefits. The letter provided by the appellant also supports MassHealth’s conclusion that he receives gross monthly social security benefits of \$2076.00 before the deduction of his Medicare premium. As health insurance premiums are not a noted deduction contained within 130 CMR 506.003(D), there is no evidence that MassHealth should use the appellant’s net social security payment when calculating his MAGI income.

Furthermore, the additional letter provided by the appellant is insufficient to demonstrate that he

makes alimony payments to his ex-spouse. First, the letter does not state the relationship between its author and the appellant. Second, it does not indicate that any payments made are done so pursuant to an alimony agreement. Third, it lacks any indication as to when any agreement between the parties was made and whether it was done so prior to 2018. Fourth, it states that the payments are made “to cover his living expense while he resides at [his address on file],” making the letter contradictory as to whether the appellant is receiving the payments or making them. Exhibit 6 at 2. As such, I find that the appellant has not demonstrated, by a preponderance of the evidence, that he makes alimony payments to his ex-spouse which would entitle him to a deduction toward his MAGI income.<sup>1</sup> Therefore, the evidence shows that the appellant’s total gross monthly income is \$4014.00, which equates to 321.99% of the federal poverty level.

Because the appellant’s income is greater than 200% of the federal poverty level, but less than 400%, he is first obligated to contribute a base monthly premium of \$40.00 per month. That base premium is then increased by \$8.00 for each additional 10% of the federal poverty level which, in this case, would equate to 8 x 12, or an additional \$64.00. Thus, based on my calculation, the appellant would actually be assessed a monthly premium of \$104.00. Because MassHealth has elected to impose a lesser premium, I will not order MassHealth to increase that premium now. However, I do note that, based on the evidence before me, MassHealth would be within its right to increase that premium prospectively, pursuant to proper notice to the appellant. Further, I do not find that MassHealth erred in assessing a premium that was too high based on the appellant’s income. The notice issued on July 2, 2024, should thereby stand.

For the foregoing reasons, the appeal is hereby 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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<sup>1</sup> The appellant may, at any time, provide MassHealth with more definitive documentation related to his alleged obligation to make alimony payments to his ex spouse.

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Mariah Burns  
Hearing Officer  
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center

Cc: Karishma Raja, Premium Billing Department