

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied-in-part; Dismissed-in-part	Appeal Number:	2411244
Decision Date:	9/30/2024	Hearing Date:	08/20/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Liz Nickoson, Taunton MassHealth Enrollment
Center



*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-in-part; Dismissed-in-part	Issue:	Eligibility; Under 65; Income
Decision Date:	9/30/2024	Hearing Date:	08/20/2024
MassHealth's Rep.:	Liz Nickoson	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings, Remote	Aid Pending:	Yes

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through two notices dated 7/9/24, MassHealth informed Appellant and his wife (collectively "Appellants") that their benefit was being downgraded from Standard to CommonHealth effective 7/23/24 and that they would owe a per-household monthly premium of \$15 for their CommonHealth coverage. See Exhs. 1 and 2. Appellants timely appealed the notices on 7/20/24 with Appellant's wife designating Appellant as her appeal representative. See Exh. 3 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 downgraded Appellants' MassHealth benefit from Standard to CommonHealth effective 7/23/24 and assessed a \$15 monthly household premium for their CommonHealth coverage, starting August 2024.

Issue

The issues on appeal are: (1) whether Appellants' household income exceeds the regulatory limit to remain eligible for Standard, and (2) whether MassHealth appropriately downgraded their coverage to CommonHealth with a \$15 monthly premium pursuant to eligibility notices dated 7/9/24.

Summary of Evidence

A MassHealth eligibility representative appeared at hearing and testified that Appellant and his wife, both adults under the age of 65, are in a household size of two (2) and both have verified disabilities. They previously qualified for MassHealth Standard with Buy-In. Their initial eligibility was based on the wife's social security benefit as the sole income for the household, placing them at 62% of the federal poverty level (FPL). On 7/9/24, MassHealth received an electronic data match from federal sources showing that both Appellant and his wife were receiving gross monthly social security income at \$1,931 and \$1,187, respectively, which increased their household FPL to 178.5%. Because this information was inconsistent with the existing figures on file, MassHealth notified Appellants, through individual notices dated 7/9/24, that their Standard with Buy-In benefit would end on 7/23/24 because their income exceeded the program limit. The notices further advised them that their coverage would change to CommonHealth and they would owe monthly premium of \$15 (per-household) starting August 2024. See Exhs. 1 and 2. By appealing the 7/9/24 notices, Appellants qualified for aid pending, which has protected their Standard with Buy In from closing during the pendency of this appeal.

The MassHealth representative testified that the income limit to qualify for Standard is 133% of the FPL. Although no longer eligible for Standard, Appellants' verified disability status renders them eligible for CommonHealth subject to a monthly premium. The premium amount is dependent on the household FPL. Using the reported FPL of 178.5%, MassHealth determined that Appellants would owe a per-household monthly premium of \$15 for their CommonHealth coverage. The MassHealth representative testified after the 7/9/24 notices were issued, Appellant provided MassHealth with verification showing that his actual social security income is \$1,692.60 per-month - less than the amount reported through the data hub. The updates caused Appellant's wife income to revert to her last verified social security amount of \$888, but subject to proof of income due by 10/16/24.¹ On 7/18/24, MassHealth processed the updated income information, which reduced their FPL to 146.5%. Based on the redetermination, Appellants' income still exceeds the limit for Standard and they remain eligible only for CommonHealth. The updates did, however, waive their premium to \$0.00 because it placed their household under 150% of the FPL. Through notices dated 7/18/24, MassHealth notified

¹ MassHealth explained that the updates prompted the system to generate a "request for information," which was sent to Appellants, seeking proof of the wife's income by 10/16/24, and that continued eligibility based on these figures would be subject to Appellants response and/or compliance with the request for information.

Appellants of this redetermination, which effectively rescinded the 7/8/24 premium obligation.

Appellant appeared at hearing acting pro se and also represented his wife. Appellant testified that he sought to appeal the eligibility determination because it was unclear where and how MassHealth obtained the increased income figures and FPL. He has placed numerous calls to MassHealth on this issue but has yet to get an answer. Appellant confirmed that his current gross social security income of \$1,692 was correct. Appellant was unable to confirm whether his wife's social security income was accurate; however, he did not have evidence to otherwise dispute it. Appellant testified that he would comply with the request for proof of his wife's income by the specified deadline.

Findings of Fact

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

1. Appellant and his wife, both adults under the age of 65, are in a household size of two (2) and both have verified disabilities.
2. Appellants previously qualified for MassHealth Standard with Buy-In based on their income, which, at the time of enrollment, showed the wife's social security benefit as the sole household income source, and placed them at 62% of the FPL.
3. On 7/9/24, MassHealth received an electronic data match from federal sources showing that Appellant and his wife were receiving gross monthly social security income at \$1,931 and \$1,187, respectively, which increased their household FPL to 178.5%.
4. Through individual notices dated 7/9/24, MassHealth informed Appellants that their Standard with Buy-In would end on 7/23/24 because their income exceeded the program limit, and that their benefit would change to CommonHealth, with a household monthly premium of \$15 starting August 2024.
5. Appellants timely appealed the 7/9/24 notices, and, in doing so, received aid pending, which has kept their Standard with Buy-In from closing throughout this appeal.
6. Following the 7/9/24 determinations, updates were made on Appellants' case reflecting Appellant's actual social security income of \$1,692.60 per-month and his wife's social security income of \$888 per-month, for a combined gross household income of \$2,580.
7. On 7/18/24, MassHealth processed the updates to Appellants' case, which lowered their household income 146% of the FPL.

8. Through notices dated 7/18/24, MassHealth reapproved Appellants for CommonHealth and waived their premium to \$0.00 based on the reduced household income.

Analysis and Conclusions of Law

The issues on appeal are whether MassHealth correctly determined that Appellants no longer qualified for MassHealth Standard with Buy In because their household income exceeded the program limit; and if so, whether MassHealth correctly changed their benefit to CommonHealth with an assessed premium.

To establish eligibility for MassHealth, applicants must meet both the categorical and financial requirements. It is undisputed that Appellants are categorically eligible for MassHealth Standard and CommonHealth based on their verified disabilities. To be financially eligible for MassHealth Standard, individuals under the age of 65 must have a household modified adjusted gross income (MAGI) less than or equal to 133% of the federal poverty level (FPL). See 130 CMR 505.002(E). For individuals in a household size of two (2), that limit is \$2,266 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). Countable household income includes both earned and unearned income less deductions described in 130 CMR 506.003(D).² See 130 CMR 506.003. According to MassHealth financial eligibility regulations, countable 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(B) (emphasis added).

Here, the evidence shows that Appellants were initially eligible for MassHealth Standard based on their household income which placed them at 62% of the FPL. As part of its renewal process, MassHealth received conflicting income data from federal sources, which showed that their household income had increased to 178.5% of the FPL. See 130 CMR 502.007. On this basis, MassHealth informed Appellants on 7/9/24, that their benefit would be downgraded from Standard with Buy-In (set to end 7/23/24) and transitioned to CommonHealth with a per-household monthly premium of \$15 starting in August 2024. See Exhs. 1 and 2. On or around 7/18/24, Appellant verified that his actual social security gross income is \$1,692 per month – less

² 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.

than the amount reported through the data match. At this time, Appellant's wife's income was adjusted to the last verified amount of \$888. The combined household income, per the updated figures, is \$2,580, or 146% of the FPL. Despite the reduction, Appellants income still exceeds the maximum FPL limit of 133% to qualify for Standard. MassHealth did not err in its 7/9/24 determination that Appellants were no longer eligible for Standard. Because Appellants have verified disabilities, however, MassHealth correctly determined that the next-most comprehensive benefit for which they are eligible is 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").

Additionally, MassHealth did not err in ending Appellants' Buy-In benefit along with Standard. According to MassHealth eligibility regulations, Buy-In, also referred to as the "Medicare Savings Program" (MSP), through which MassHealth pays a member's Medicare Part B premium, is limited to CommonHealth eligible individuals ***who have a MAGI "that is less than or equal to 135% of the FPL."*** See 130 CMR 505.004(L) (emphasis added). As Appellants' FPL exceeds this amount, they are currently ineligible for Buy-In.

Based on the foregoing, the appeal is DENIED-in-part as MassHealth did not err in downgrading Appellants' coverage-type, pursuant to its 7/9/24 determination, from Standard with Buy-In to CommonHealth.

The appeal is DISMISSED-in-part with respect to MassHealth's 7/9/24 assessment of a \$15 monthly premium. At hearing, MassHealth confirmed that subsequent income adjustments reduced Appellants' household FPL to 146%, thereby waiving their premium obligation. See 130 CMR 506.011 (MassHealth may charge monthly premiums to certain CommonHealth members with income above 150% of the FPL). As Appellants had no premium obligation as of the hearing date, this portion of the appeal dismissed pursuant to 130 CMR §§ 610.051(B), 610.035.³

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

³ As was discussed at hearing, this appeal only addresses the validity and effect of MassHealth's 7/9/24 eligibility determination and is decided based on the aforementioned income figures testified to during hearing. If MassHealth receives updated income information, either pursuant to its 7/18/24 request for information or through other means, it may redetermine Appellants' eligibility for continued benefits and/or premium obligations accordingly. MassHealth will provide advance written notice to Appellants of any subsequent redetermination or change in benefit, which will include a right to appeal under 130 CMR 610.00 et. seq.

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

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