

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411441
Decision Date:	11/4/2024	Hearing Date:	9/25/2024
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Sherrienne Paiva, Taunton MEC

Interpreter:

N/A



*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 for MSP while receiving CommonHealth, Eligibility Under 65, Income
Decision Date:	11/4/2024	Hearing Date:	9/25/2024
MassHealth's Rep.:	Sherrienne Paiva	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (Tel)	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, MassHealth determined that the Appellant is no longer eligible for a Medicare Savings Program (MSP) because the Appellant's countable income is over the limit exceeding 135% of the Federal Poverty Level (FPL). (see 130 CMR 505.004(L), 130 CMR 519.012(D), and Exhibit 1). MassHealth determined that the Appellant remains eligible for MassHealth CommonHealth. (Exhibit 1) In the Notice, MassHealth stated "the federal government does not allow MassHealth to offer an MSP to CommonHealth members with incomes above 135% of the federal poverty Level (FPL)." (Exhibit 1) The Appellant filed this appeal in a timely manner on July 24, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Reduction of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the Appellant is no longer eligible for a Medicare Savings Program (MSP) because the Appellant's countable income is over the limit, exceeding 135% of the Federal Poverty Level (FPL). (see 130 CMR 505.004(L), 130 CMR 519.012(D), and Exhibit 1).

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.004(L), and 130 CMR 519.012(D), in determining that the Appellant is no longer eligible for a Medicare Savings Program (MSP) because the Appellant's countable income is over the limit, exceeding 135% of the Federal Poverty Level (FPL). (see 130 CMR 505.004(L), 130 CMR 519.012(D), and Exhibit 1).

Summary of Evidence

The Appellant is a MassHealth member under the age of 65. (Testimony, Exhibit 4). The Appellant seeks reinstatement into the Medicare Savings Program. (Exhibit 2) MassHealth determined that the Appellant is no longer eligible for a Medicare Savings Program (MSP) because the Appellant's countable income is over the limit, exceeding 135% of the Federal Poverty Level (FPL). (see 130 CMR 505.004(L), 130 CMR 519.012(D), and Exhibit 1). MassHealth indicated that the Appellant remains eligible for MassHealth CommonHealth. (Exhibit 1) From this determination, the Appellant appeals.

MassHealth testified that the Appellant's household is a household of 1, with a monthly income calculated above 135% of the Federal Poverty Level (FPL). (Testimony, Exhibit 1). This is based upon a gross monthly income from Social Security of \$1,790. (Testimony) The Appellant has a disability attributed and has been approved for CommonHealth. (Testimony, Exhibit 1) MassHealth stated that based on this calculation, the Appellant is over income for a Medicare Savings Program through CommonHealth (exceeding 135% of the Federal Poverty Level (FPL), but remains qualified for MassHealth CommonHealth. (Testimony).

The Appellant testified that after receiving the Notice¹ (Exhibit 1), he contacted MassHealth to seek an appeal (Exhibit 2, Testimony). The Appellant confirmed that he receives \$1,790/month from Social Security. (Testimony) The Appellant testified that he cannot afford to pay the Medicare Premium, and that he is homeless. The Appellant noted that he makes too little money to receive housing, but too much money to have MassHealth pay for his Medicare payment. (Testimony)

¹ There is no date on the Notice. (Exhibit 1). MassHealth testified that a copy of the Notice was not provided to the MassHealth Representative. The Appellant testified that the first Notice was received in July, indicating a cessation of payment of the Appellant's Medicare payment in August of 2024. (Exhibit 1, Exhibit 2, Testimony) The second Notice (Exhibit 1A) was received after the first notice, indicating a cessation of payment of the Appellant's Medicare payment in September of 2024. The Appellant testified that he has since received a third Notice, indicating a cessation of payment of the Appellant's Medicare payment in October. This third Notice is not within this Administrative Record. The Appellant declined the opportunity to provide a copy to this Hearing Officer for inclusion in the Administrative Record. I find that the request for a Fair Hearing is timely, utilizing a Notice date of July, 2024.

Findings of Fact

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

1. The Appellant is a MassHealth member, who is an adult under the age of 65. (Testimony, Exhibit 1)
2. The Appellant resides in a household size of one, and has a disability attributed. (Testimony, Exhibit 1)
3. The Appellant's income calculates to \$1,790/month from Social Security. (Testimony)
4. 100% of the federal poverty level is \$1,255.00 a month for a household of one. (2024 MassHealth Income Standards and Federal Poverty Guidelines)².
5. 135% of the federal poverty level is \$1,694.25 a month for a household of one. (2024 MassHealth Income Standards and Federal Poverty Guidelines).

Analysis and Conclusions of Law

The Appellant is seeking reinstatement to a Medicare Savings Program (MSP). Through the Notice, which is the subject of this appeal, MassHealth determined that the Appellant is no longer eligible for a Medicare Savings Program (MSP) because the Appellant's countable income is over the limit, exceeding 135% of the Federal Poverty Level (FPL). (Exhibit 1, Exhibit 1A)

130 CMR 505.004 defines the categorical requirement for eligibility for MassHealth CommonHealth for individuals under the age of 65. 130 CMR 519.012 defines the categorical requirement for eligibility of MassHealth CommonHealth for individuals over the age of 65. The Appellant is under the age of 65, therefore 130 CMR 505.004 controls.

MassHealth offers an MSP to CommonHealth members with incomes at or below 135% of the Federal Poverty Level. For individuals under the age of 65, this is codified within 130 CMR 505.004(L):

(L) Medicare Premium Payment.

(1) The MassHealth agency, in accordance with the Medicare Savings Program as described in 130 CMR 519: Medicare Savings Program (MSP) - Qualified Medicare Beneficiaries (QMB) and 519.011: Medicare Saving Program (MSP) - Specified Low Income Medicare Beneficiaries and Qualifying Individuals also pays

² For 2024, 100% of the FPL for a household of 1 is \$1,255/month or \$15,060/year.

the cost of the monthly Medicare Part B premium on behalf of members who meet the requirements of 130 CMR 505.004 and ***who have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 135% of the FPL.***

(2) The coverage described in 130 CMR 505.004(L)(1) begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth. (***Emphasis added***)

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

Based upon the evidence presented, I find that MassHealth did not err in determining that the Appellant does not currently qualify for a Medicare Savings Program. Where an adult, under the age of 65, is a MassHealth member, and the member's income exceeds 135% of the Federal Poverty Level (FPL), 130 CMR 505.004(L) explicitly excludes payment for the cost of the monthly Medicare Part B premium on behalf of members, since the members do not meet requirements of 130 CMR 505.004.

Accordingly, I find that the Appellant has not met the burden, by a preponderance of evidence, to show the invalidity of MassHealth's administrative determination. Accordingly, 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 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.

Patrick M. Grogan
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616