

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2411471
<b>Decision Date:</b>	11/20/2024	<b>Hearing Date:</b>	08/27/2024
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	11/12/2024

**Appearance for Appellant:**



**Appearances for MassHealth:**

Jacob Sommer, Charlestown MEC; Roxana Noriega, Premium Assistance



*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	<b>Issue:</b>	Premium Assistance
<b>Decision Date:</b>	11/20/2024	<b>Hearing Date:</b>	08/27/2024
<b>MassHealth's Reps.:</b>	Jacob Sommer, Roxana Noriega	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center (Telephone)	<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 17, 2024, MassHealth notified the Appellant that she was “enrolled in acceptable private health insurance” and had approved the Appellant and her child for MassHealth Premium Assistance benefits of \$628/monthly. The Appellant also received a notice dated July 17, 2024 from MassHealth stating that the Appellant was approved for MassHealth Standard plus Premium Assistance. Exhibit 1. The Appellant filed this appeal in a timely manner on July 24, 2024, stating that “Premium Assistance does not pay all of my health insurance premium. I’m on MassHealth Standard and should not have a required member contribution” citing regulation 130 CMR 506.012(D)(3)(a). 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved the Appellant for MassHealth Standard with Premium Assistance, but the Premium Assistance payment does not cover the full monthly premium of the employer-sponsored insurance.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.012(D)(2)(a) and (E), in determining that the Appellant's premium assistance payment would not cover the full cost of the monthly premium for the Appellant's employer-sponsored insurance.

## Summary of Evidence

The hearing was held by telephone. MassHealth was represented by an eligibility specialist and a Premium Assistance specialist. The MassHealth eligibility specialist testified that the Appellant's household consisted of two people, the Appellant and a minor child and that the household income was \$26,450 annually, which is 124.44% of the federal poverty level. The Appellant is an adult between the ages of 21-64. The Premium Assistance representative testified that Premium Assistance for MassHealth Standard members is capped at \$314 per month per person, hence for the Appellant's household of two, it is \$628 per month. When asked by the hearing officer, the Premium Assistance representative testified that the \$314 per month per member figure comes from MassHealth. The Premium Assistance representative testified that if the Appellant had selected a plan in the Qualifying Event Letter it would have been covered at 100%, which included Harvard Pilgrim, Health New England, and 2 Unicare Plans.

The Appellant was represented by her mother, who verified the Appellant's identity. The Appellant's representative testified that she and the Appellant spent a lot of time selecting the Appellant's employer-sponsored insurance plan, and there was no explanation that the plans would not be covered at 100% on the qualifying event letter. The Appellant's representative testified that [REDACTED] plan does not cover the geographic area where the Appellant lives, and that the Appellant selected one of the listed [REDACTED] [REDACTED] See also Exhibit 5 at 1 (a copy of the qualifying event letter sent to the Appellant from Premium Assistance). The Appellant's representative testified that on July 1, 2024, the [REDACTED] plan became [REDACTED]<sup>1</sup> The Appellant's representative testified that the Appellant's employer-sponsored insurance plan costs her \$685/monthly, such that she has out-of-pocket monthly expenses of \$57/month, which is a lot on her limited income. The Appellant's representative testified that when she and the Appellant contacted MassHealth they could not get an answer as to why she has to pay additional money if she is eligible for MassHealth Standard. The Appellant's representative also cited to 130 CMR 506.012(D)(3)(a), which states that MassHealth Standard members who are eligible for premium assistance do not have a required member contribution.

The hearing officer reopened the record, under 130 CMR 610.081, asking that MassHealth and

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<sup>1</sup> This is supported by the plan website that states that [REDACTED] is now [REDACTED] as of July 1, 2024. See <https://www.wellpoint.com/mass/health-plans/plus-plan>.

Premium Assistance explain (1) the legal basis for the cap of \$314 per member per month for Premium Assistance payments; (2) how the \$314 was arrived at; and (3) why MassHealth required the Appellant to enroll in employer-sponsored insurance when she was incurring a cost for the coverage, which she would not have based on her eligibility for MassHealth Standard. Exhibit 6.

The Premium Assistance representative responded to the first question, that the MassHealth regulations “dictate plans must be Cost Effective to purchase, but Cost Effectiveness is determined by the Agency and based on program expenditure projections. Currently Standard non-disabled rate is \$314PMPM, Standard disabled and CommonHealth are \$1314 PMPM.” Exhibit 8 at 1. In response to the second question, the Premium Assistance representative responded that 130 CMR 506.012 “authorizes P[remium] A[ssistance] for plans based on cost effectiveness based on their benefit plan (as outlined in 130 [CMR] 506.012(A), but same as question 1, the actual C[ost] E[ffective] PMPM rates are set by the Agency.” *Id.* Regarding the third question, the Premium Assistance representative responded that, “We would have only confirmed access on the plan if we can cover the full cost of the plan. In this instance it sounds like she enrolled in a plan we did not include in the Q[ualifying] E[vent] L[etter]. We would not mandate enrollment in this plan, but we would for [employer-sponsored insurance] that meets cost effectiveness.” *Id.* The Premium Assistance representative also included a response from the Deputy Director of MassHealth Premium Assistance and Eligibility Integrity which stated:

MassHealth Premium Assistance cost effectiveness amounts are determined by MassHealth based on three primary factors:

- The monthly capitation rate payment that MassHealth would have to pay to an ACO or MCO if the member was not on Premium Assistance
  - The average cost of MassHealth wrap services not traditionally covered by private insurance for Premium Assistance members
  - The administrative costs of running the Premium Assistance program
- For a non-disabled member such as this case, the corresponding cost-effectiveness amount is \$314 per member, per month (PMPM) based on these factors.

Exhibit 7 at 1.

The MassHealth eligibility specialist responded to the question about enrolling in employer-sponsored insurance with the following:

In the current MassHealth member booklet (<https://www.mass.gov/doc/member-booklet-for-health-and-dental-coverage-and-help-paying-costs-0/download>) on page 12, it states “MassHealth regulations require members to obtain and maintain available health insurance, including health insurance available through an employer.”

MassHealth requires that people enrolled in MassHealth Standard obtain an employer-sponsored health insurance (ESI) if it meets criteria for proper

coverage. As stated in 130 CMR 503.007: “MassHealth regulations require members to obtain and maintain available health insurance, including health insurance available through an employer.”

This is further referenced in 130 CMR 505.002 (M): “Applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007: Potential Sources of Health Care, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: Premium Assistance Payments. Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.”

The requirement for ESI enrollment is further described in 130 CMR 505.002(N)(2)(b): “If MassHealth determines the individual has access to employer-sponsored health insurance and the employer is contributing at least 50% of the premium cost and the insurance meets all other criteria described at 130 CMR 506.012: Premium Assistance Payments, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Standard Premium Assistance Payments as described in 130 CMR 506.012: Premium Assistance Payments. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 21 years old or is pregnant.”

As [the Appellant] was not listed as pregnant and is in the 21-64 age bracket, according to MassHealth requirements as defined by Commonwealth regulations above, she is required to enroll in ESI providing it is determined to be suitable coverage.

Exhibit 9 at 1.

## **Findings of Fact**

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

1. The Appellant is an adult between the ages of 21-64. Testimony; Exhibit 4.
2. The Appellant has a household size of two, consisting of herself and her minor child.

Testimony.

3. The Appellant's household income is \$26,450 annually, which is 124.44% of the federal poverty level. Testimony.
4. The Appellant is categorically and financially eligible for MassHealth Standard. Testimony; Exhibit 1.
5. On May 15, 2024, MassHealth sent the Appellant a qualifying event letter directing the Appellant's employer to allow the Appellant and her child to enroll in one of four qualified health plans. Exhibit 5.
6. The qualifying event letter includes [REDACTED] as a qualified health plan. Exhibit 5.
7. The Appellant enrolled herself and her child in the [REDACTED] plan. Testimony.
8. MassHealth authorized Premium Assistance payments of \$628/month for the Appellant's household. Testimony; Exhibit 1.
9. The Appellant's cost for her employer-sponsored insurance is \$685/month. Testimony.

## **Analysis and Conclusions of Law**

MassHealth regulations provide the following:

### **505.002: MassHealth Standard**

#### **(A) Overview.**

- (1) 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F).
- (2) Persons who receive Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA) are eligible for MassHealth Standard.
- (3) Persons who receive Transitional Aid to Families with Dependent Children (TAFDC) cash assistance from the Department of Transitional Assistance (DTA) are eligible for MassHealth Standard.
- (4) Children, young adults, and parents and caretaker relatives who receive Emergency Aid to

the Elderly, Disabled and Children (EAEDC) cash assistance are eligible for MassHealth Standard if they meet the citizenship and immigration requirements described at 130 CMR 504.002: U.S. Citizens and 130 CMR 504.003(A)(1): Qualified Noncitizens, (2): Qualified Noncitizens Barred, and (3): Nonqualified Individuals Lawfully Present.

(5) Persons who do not otherwise meet the requirements of 130 CMR 505.002, but who meet the AFDC rules that were in effect on July 16, 1996, are eligible for MassHealth Standard.

(6) Persons eligible for MassHealth Standard coverage are eligible for medical benefits as described at 130 CMR 450.105(A): MassHealth Standard and 130 CMR 508.000: MassHealth: Managed Care Requirements.

....

(C) Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

(b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and

(c) 1. the parent lives with their children, and assumes primary responsibility for the child's care, in the case of a parent who is separated or divorced, has custody of their children, or has children who are absent from home to attend school; or

2. the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M).

....

(M) Use of Potential Health Insurance Benefits. **Applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007: Potential Sources of Health Care, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: Premium Assistance Payments.** Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

130 CMR 505.002(A), (C), (M) (emphasis added).

506.012: Premium Assistance Payments

(A) Coverage Types. Premium assistance payments are available to MassHealth members who are eligible for the following coverage types:

(1) MassHealth Standard, as described in 130 CMR 505.002: *MassHealth Standard*, with the exception of those individuals described in 130 CMR 505.002(F)(1)(d);

....

(D) Required Member Contribution. The calculation of the MassHealth required member contribution is as follows.

(1) MassHealth may require that a member contribute towards the cost of their health insurance coverage. MassHealth refers to this amount as the MassHealth required member contribution. The MassHealth required member contribution is based on MassHealth MAGI household income and size and/or the MassHealth Disabled Adult household income and size, as described in 130 CMR 506.002 and 130 CMR 506.003, as it relates to federal poverty guidelines and PBFG rules described at 130 CMR 506.011(A).

....

**(3) The following members do not have a required member contribution:**

**(a) MassHealth Standard premium assistance eligible members described at 130 CMR 505.002: MassHealth Standard;**

(b) MassHealth CommonHealth premium assistance eligible members, as described in 130 CMR 505.004: MassHealth CommonHealth, who have household MAGI at or below 150% of the FPL;

(c) MassHealth CarePlus premium assistance eligible members, as described in 130 CMR 505.008: MassHealth CarePlus;

(d) MassHealth Family Assistance premium assistance eligible members, as described in 130 CMR 505.005(C): Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level, who household MAGI is at or below 150% of the FPL; and

(e) MassHealth members who have verified that they are American Indians or Alaska Natives who have received or are eligible to receive an item or service furnished by the Indian Health Service, an Indian tribe, a tribal organization, or an urban Indian organization, or by a non-Indian health care provider through referral, in accordance with federal law. These members receive premium assistance payments totaling the full employee share, to the extent that it is cost effective for the MassHealth agency. If it is not cost effective for the MassHealth agency, these members may choose to accept a premium assistance amount that is lower than the full-employee share or they may choose to enroll in direct coverage under MassHealth Family Assistance.

(E) MassHealth Premium Assistance Payment Amount Calculation.

(1) Formulas. MassHealth uses two formulas to calculate the premium assistance payments. The formulas are based on the category of assistance a member is enrolled in. In the event an individual is covered by more than one private health insurance policy, MassHealth will include that individual in the calculation of one premium assistance policy.

(a) The monthly premium assistance formula for ESI 50% Plans is described in 130 CMR 506.012(E)(2).



(b) The monthly premium assistance formula for Other Group Insurance Plans is described in 130 CMR 506.012(E)(3).

(2) MassHealth Premium Assistance Payment Amount Calculation — ESI 50% Plans.

(a) Determination of Actual Premium Assistance Payment Amount. In order to determine the actual premium assistance payment amount, MassHealth must review and compare the estimated premium assistance payment amount and the cost-effective amount. The estimated premium assistance payment amount and cost-effective amount are compared to calculate the actual premium assistance payment amount.

1. Estimated Premium Assistance Premium Payment Amount. The estimated premium assistance payment amount is calculated by subtracting the employer share of the policyholder's health insurance premium and the MassHealth required member contribution of the health insurance premium, as described in 130 CMR 506.012(D), from the total cost of the health insurance premium.

2. Cost-effective Amount. The ESI 50% Plans cost-effective amount is the MassHealth agency's cost of providing direct MassHealth benefits to the premium billing family group (PBFG) who are beneficiaries of the ESI.

(b) Comparison of Payment Amounts. MassHealth compares the estimated premium assistance payment amount and cost-effective amount to determine the actual premium assistance payment amount.

1. If the estimated premium assistance payment amount is less than the cost-effective amount, the MassHealth agency sets the actual premium assistance payment amount at the estimated premium assistance payment amount.

2. If the estimated premium assistance payment amount is equal to or greater than the cost-effective amount, the MassHealth agency sets the actual premium assistance payment amount at the cost-effective amount. The policy holder is responsible for payment of the remainder of the health insurance premium, if any.

(c) Example. A parent and two children apply for MassHealth. The two children are eligible for MassHealth, but the parent is not eligible. Their health insurance is an ESI 50% plan.

1. The total monthly cost of the health insurance premium = S.
2. The employer's monthly share of the health insurance premium = T.
3. The MassHealth estimated member share of the monthly health insurance premium = U.
4. Calculating the estimated premium assistance payment amount:

$$\begin{aligned} &S = (\text{total cost of premium}) \\ &\underline{- T} = (\text{employer's share of the cost}) \\ &V = (\text{employee's share of the cost}) \\ &\underline{- U} = (\text{the MassHealth estimated member share of the cost}) \end{aligned}$$

W = (estimated premium assistance payment amount)

ESI 50% Plans cost-effective amount: W is compared to the MassHealth cost of covering the three individuals (X).

If W is less than X, the MassHealth agency sets the actual premium assistance payment amount at W.

If W is equal to or greater than X, the MassHealth agency sets the actual premium assistance payment amount at X.

(3) MassHealth Premium Assistance Payment Amount Calculation — Other Group Insurance Plans.

(a) Determination of Actual Premium Assistance Payment Amount. In order to determine the actual premium assistance payment amount, MassHealth must review and compare the estimated premium assistance payment amount and the cost-effective amount. The estimated premium assistance payment amount and cost-effective amount are compared to calculate the actual premium assistance payment amount.

1. Estimated Premium Assistance Payment Amount. The estimated premium assistance payment amount is calculated by subtracting both the MassHealth required member contribution, as described in 130 CMR 506.012(D) and any contribution amount from an employer a person covered by this plan is eligible for from the total cost of the health insurance premium.

2. Cost-effective Amount. The Other Group Insurance Plans cost-effective amount is the MassHealth agency's cost of covering MassHealth-eligible premium billing family group (PBF) members who are beneficiaries of the Other Group Insurance Plan.

(b) Comparison of Payment Amounts. MassHealth compares the estimated premium assistance payment amount and cost-effective amount to determine the actual premium assistance payment amount.

1. If the estimated premium assistance payment amount is less than the cost-effective amount, the MassHealth agency sets the actual premium assistance payment amount at the estimated premium assistance payment amount.

2. If the estimated premium assistance payment amount is equal to or greater than the cost-effective amount, the MassHealth agency sets the actual premium assistance payment amount at the cost-effective amount. The policy holder is responsible for payment of the remainder of the health insurance premium, if any.

(c) Example. A parent and two children apply for MassHealth. The two children are eligible for MassHealth, but the parent is not eligible. Their health insurance falls into Other Group Insurance Plans.

1. The total monthly cost of the health insurance premium = S.
2. The monthly contribution amount for an employer that a person covered by this plan is eligible for = T.
3. The MassHealth required member contribution toward the monthly health insurance premium = U.
4. Calculating the estimated premium assistance payment amount:

S = (total cost of premium)  
- T = (monthly contribution from an employer)  
V = (employee's share of the cost)  
- U = (the MassHealth estimated member share of the cost)  
W = (estimated premium assistance payment amount)

Other Group Insurance Plans cost-effective amount: W is compared to the cost of covering only those MassHealth eligible individuals = Z.

If W is less than Z, the MassHealth agency sets the actual premium assistance payment amount at W.

If W is equal to or greater than Z, the MassHealth agency sets the actual premium assistance payment amount at Z.

130 CMR 506.012(A)(1), (D)(1), (D)(3), (E) (emphasis added)

As stated above, the Appellant is categorically and financially eligible for MassHealth Standard. 130 CMR 505.002(C); *see also* Exhibit 1 (approving the Appellant for MassHealth Standard). Based on the qualifying event letter, dated May 15, 2024, the Appellant enrolled in a qualified health plan. Exhibit 5 at 1. The Appellant is directed to enroll in other available health insurance "if available at no greater cost to the applicant or member than they would pay without access to health insurance." 130 CMR 505.002(M). Here, the Appellant's Premium Assistance payment is less than the cost of her qualified health insurance plan such that it is more costly for the Appellant than if she did not have access to employer-sponsored insurance. Under 130 CMR 506.012(D)(3)(a), the Appellant does not have a required member contribution. As stated in the Premium Assistance record-open response, enrolling in employer-sponsored insurance is only required if MassHealth "can cover the full cost of the plan." Exhibit 8 at 1.

Therefore, the Appellant's appeal is approved.

## **Order for MassHealth**

Pay for the full cost of the Appellant's monthly premium for the qualified health plan. If MassHealth determines that it is more cost-effective to allow the Appellant and her child to

receive MassHealth Standard without enrolling in her employer-sponsored insurance, allow her to do so.

## 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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Emily Sabo  
Hearing Officer  
Board of Hearings

[REDACTED]

[REDACTED]

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

cc: Premium Assistance