

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411820
Decision Date:	09/26/2024	Hearing Date:	09/05/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearances for MassHealth:

Sharnell Santiago, Tewksbury MEC  
Karishma Raja, Premium Billing



*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>	Eligibility
<b>Decision Date:</b>	09/26/2024	<b>Hearing Date:</b>	09/05/2024
<b>MassHealth's Reps.:</b>	Shanell Santiago, Karishma Raja	<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 16, 2024, MassHealth notified Appellant that effective July 6, 2024, his MassHealth coverage was downgraded to CommonHealth and a \$15 monthly premium was due starting in August 2024 (130 CMR 505.001, 506.007, 506.011 and Exhibit 1). Appellant filed this appeal in a timely manner on July 31, 2024 (130 CMR 610.015(B) and Exhibit 2). Notice of a change in the scope of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.007, 506.011 in downgrading Appellant's coverage to CommonHealth with a \$15 a month premium.

### Summary of Evidence

The MassHealth representative testified that Appellant had been receiving MassHealth Standard coverage since 2019. In July 2024, an electronic match through the Social Security Administration verified that Appellant's income exceeded the limit for MassHealth Standard, and coverage was downgraded to CommonHealth. Appellant is a disabled household of 1 person under 65 years of age, with Social Security income totaling \$2,040 per month, which MassHealth testified equates to

157.15% of the federal poverty level. Appellant was determined to be disabled by MassHealth with an onset date of April 1, 2022. Appellant is [REDACTED], and pursuant to 130 CMR 505.002(G), income must be below 133% of the federal poverty level, \$1,670, to continue eligibility for MassHealth Standard. Because income exceeds the \$1,670 limit for MassHealth Standard, coverage was downgraded to CommonHealth with a \$15 monthly premium.

Appellant verified household size and income. Appellant testified that he has been receiving MassHealth since [REDACTED] and was diagnosed as [REDACTED] positive in [REDACTED]. Appellant stated that he was enrolled in MassHealth under the [REDACTED] and had MassHealth as both primary and secondary insurance without a premium. Appellant argued that his coverage should not be downgraded, and he should not be assessed a premium because he recently started receiving Social Security income but is not Medicare eligible. Appellant testified that he is eligible for the [REDACTED] which should preclude premium payments.

MassHealth submitted documentation that [REDACTED] is a program through the Massachusetts Department of Public Health (MDHP), administered by Community Resource Initiative, that helps eligible state residents living with [REDACTED] pay for medications and health insurance. HDAP can help pay for out-of-pocket cost of prescription drugs for [REDACTED] Hepatitis C, and other conditions for people living with HIV; and private, public, and employer-sponsored health insurance premiums through a Comprehensive Health Insurance Initiative (CHII) (Exhibit 4). MassHealth noted that the HDAP program does not impact MassHealth eligibility determinations.

## Findings of Fact

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

1. Appellant had been receiving MassHealth Standard coverage since 2019. In July 2024, an electronic match through the Social Security Administration verified that Appellant's income exceeded the limit for MassHealth Standard, and coverage was downgraded to CommonHealth.
2. Appellant is a disabled household of 1 person under 65 years of age, with Social Security income totaling \$2,040 per month.
3. Appellant was determined to be disabled by MassHealth with an onset date of April 1, 2022.
4. Appellant is [REDACTED].
5. Appellant does not have Medicare coverage.

6. Appellant's income equates to 157.54% of the federal poverty level for a household of one person.
7. 133% of the federal poverty level for a household size of 1 person is \$1,670.
8. 100% of the federal poverty level for a household size of 1 person is \$1,255.
9. [REDACTED] is a program through the Massachusetts Department of Public Health (MDHP), administered by Community Resource Initiative, that helps eligible state residents living with HIV pay for medications and health insurance. [REDACTED] can help pay for out-of-pocket cost of prescription drugs for [REDACTED] Hepatitis C, and other conditions for people living with [REDACTED] and private, public, and employer-sponsored health insurance premiums through a Comprehensive Health Insurance Initiative (CHII).

## Analysis and Conclusions of Law

MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits. (130 CMR 501.003(A)). MassHealth offers several coverage types. (130 CMR 501.003(B)). The coverage type for which an individual is eligible is based on their income and circumstances. (130 CMR 515.003(B)).

Regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- (1) MassHealth Standard – for people who are pregnant, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): Lawfully Present Immigrants, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-in and Buy-in) – for

certain Medicare beneficiaries

As a disabled adult, Appellant meets the categorical requirements for both MassHealth Standard and MassHealth CommonHealth. (130 CMR 505.001). However, both programs also have financial standards. (130 CMR 505.001). The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001).

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. MassHealth determines household composition through the Modified Adjusted Gross Income (MAGI) composition rules and the MassHealth Disabled Household composition rules (130 CMR 506.002(A)). Appellant was determined to be disabled by MassHealth. Therefore, eligibility is determined through the MassHealth Disabled Household composition rules which state that the household consists of:

- (1) the individual;
- (2) the individual's spouse if living with him or her;
- (3) the individual's natural, adopted, and stepchildren younger than 19 years old if living with him or her; and
- (4) if any woman described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children. (130 CMR 506.002(C)).

Based on testimony and evidence presented at hearing, Appellant's household consists of one person (130 CMR 506.002(B)(3)). Pursuant to 130 CMR 506.003, countable household 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(D) (130 CMR 506.003). Appellant has only unearned income from the Social Security Administration with totals \$2,040 per month (130 CMR 506.003(B)).

MassHealth allows the following deductions from countable income when determining MAGI:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses;
- (5) 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; and
- (11) higher education tuition and fees. (130 CMR 506.003(D)).

Appellant did not present evidence of any of these deductions for MassHealth to consider (130 CMR 506.003(D)).

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage (130 CMR 506.007). Different households may exist within a single family depending on the family members' familial and tax relationships to each other (130 CMR 506.007). As stated above, Appellant's household meets the definition of a MassHealth Disabled Adult Household (130 CMR 506.002). The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth Disabled Adult households (130 CMR 506.007). 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(D) (130 CMR 506.007). Income of all the household members forms the basis for establishing an individual's eligibility (130 CMR 506.007). Here, the income from Appellant alone forms the basis for establishing eligibility for MassHealth.

In determining monthly income, MassHealth averages weekly income by 4.333 (130 CMR 506.007(A)). 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 (130 CMR 506.007(A)). Appellant's countable income of \$2,040 places Appellant at 157.54% of the federal poverty level [ $\$2,040 - \$62.75 = \$1,977.25$ ] [ $\$1,977.25 \div \$1,255 = 157.54\%$ ]. MassHealth correctly calculated Appellant's household income in determining eligibility (130 CMR 506.007(A)). Appellant's countable income exceeds 133% of the federal poverty level for a family group of one [ $\$1,670$ ] making Appellant ineligible for MassHealth Standard (130 CMR 505.002(E)(1)(b)).<sup>1</sup> There is nothing in the applicable regulations that waives financial eligibility criteria for individuals who are HIV positive or receiving assistance through the HDAP program.<sup>2</sup> The eligibility determination made by MassHealth regarding eligibility for MassHealth Standard was correct.

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<sup>1</sup> See also 130 CMR 505.002(G): Eligibility Requirements for Individuals Who Are [REDACTED]. An individual who is [REDACTED] is eligible for MassHealth Standard coverage if

- (1) the individual is younger than 65 years old;
- (2) the individual has verified their [REDACTED] status by providing a letter from doctor, qualifying health clinic, laboratory, or AIDS service provider or organization. The letter must indicate the individual's name and their HIV-positive status;
- (3) the modified adjusted gross income of the MassHealth MAGI household is **less than or equal to 133% of the federal poverty level (FPL)**;
- (4) 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): *Qualified Noncitizens*; and
- (5) the individual does not meet the requirements for MassHealth Standard described at 130 CMR 505.002(B) through (E).

<sup>2</sup> Information about HDAP services is available at <https://crihealth.org/drug-assistance/hdap/>

Under the published regulations at 130 CMR 505.004, to qualify for MassHealth CommonHealth, a disabled adult must meet certain requirements. If the disabled adult is working, he or she must meet the following requirements:

- (1) be aged 21 through 64 (For those aged 65 and older, see 130 CMR 519.012.);
- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the MBR or MassHealth's eligibility review;
- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001;
- (4) be 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): Qualified Noncitizens;
- (5) be ineligible for MassHealth Standard; and
- (6) comply with 130 CMR 505.004(J).

Under the published regulations at 130 CMR 505.004, if the disabled adult is not working, he or she must meet the following requirements to qualify for MassHealth CommonHealth:

- (1) be aged 21 through 64;
- (2) be permanently and totally disabled, as defined in 130 CMR 501.001;
- (3) be ineligible for MassHealth Standard;
- (4) be 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): Qualified Noncitizens;
- (5)
  - (a) meet a one-time-only deductible in accordance with 130 CMR 506.009; or
  - (b) have modified adjusted gross income of the MassHealth Disabled Adult Household that is less than or equal to 200 percent of the federal poverty level and provide verification that they are HIV positive; and
- (6) comply with 130 CMR 505.004(J).

In December 2023, to streamline eligibility and remove additional barriers to qualifying for MassHealth, MassHealth updated their system to allow adult MassHealth members with disabilities, who have an income above 150% of the FPL and are 19–20 years old, or who have an income above 133% of the FPL and are 21–64 years old, to be eligible to receive MassHealth CommonHealth benefits without having to meet a one-time deductible or be employed at least 40 hours per month (MassHealth Eligibility Operations Memo (EOM) 23-28). At the time of the eligibility decision on appeal, Appellant did not have to meet a deductible or show evidence of employment to qualify for MassHealth CommonHealth (130 CMR 505.004; MassHealth EOM 23-28).

Pursuant to 130 CMR 506.011, MassHealth may charge a monthly premium 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. MassHealth premium amounts are calculated based on a member's household modified adjusted gross income (MAGI) and their household size as described in 130 CMR 506.002 and 130 CMR 506.003 and the premium billing family group (PBF) rules as described in 130 CMR 506.011(A). (130 CMR 506.011). Certain members are exempt from paying premiums, in accordance with 130 CMR 506.011(J).<sup>3</sup> (130 CMR 506.011). Based on the evidence and testimony presented, Appellant is not a MassHealth member who is exempt from paying a premium.

Pursuant to 130 CMR 506.011(B)(2)(b), the full premium formula for adults with household income above 150% 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. (130 CMR 506.011(B)(2)(b)).

CommonHealth Full Premium Formula		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150% FPL start at \$15	Add \$5 for each additional 10% FPL	\$15 - \$35
Above 200% FPL start at \$40	Add \$8 for each additional 10% FPL	\$40 - \$192
Above 400% FPL start at \$202	Add \$10 for each additional 10% FPL	\$202 - \$392
Above 600% FPL start at \$404	Add \$12 for each additional 10% FPL	\$404 - \$63
Above 800% FPL start at \$646	Add \$14 for each additional 10% FPL	\$646 - \$912
Above 1,000% FPL start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

<sup>3</sup> 130 CMR 506.011(J) Members Exempted from Premium Payment. The following members are exempt from premium payments:

- (1) 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;
- (2) MassHealth members with MassHealth MAGI household income or MassHealth Disabled Adult household income at or below 150% of the federal poverty level;
- (3) pregnant individuals and children younger than one year old;
- (4) children when a parent or guardian in the PBF is eligible for a Qualified Health Plan (QHP) with Premium Tax Credits (PTC) who has enrolled in and has begun paying for a QHP;
- (5) children for whom child welfare services are made available under Part B of Title IV of the *Social Security Act* on the basis of being a child in foster care and individuals receiving benefits under Part E of that title, without regard to age;
- (6) individuals receiving hospice care;
- (7) independent former foster care children younger than 26 years old; and
- (8) members who have accumulated premium and copayment charges totaling an amount equal to 5% of the member's MAGI income of the MassHealth MAGI household or the MassHealth Disabled Adult household, as applicable, in a given calendar quarter do not have to pay further MassHealth premiums during the quarter in which the member reached the 5% cap.



Appellant's income is above 150% of the federal poverty level but less than 160% of the federal poverty level resulting in a full premium of \$15 each month (130 CMR 506.011(B)(2)(b)).

The 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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957