

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411976
Decision Date:	10/11/2024	Hearing Date:	09/04/2024
Hearing Officer:	Marc Tonaszuck		

Appearances for Appellant:



Appearances for MassHealth:

Hector Rivera, MassHealth Enrollment Center (MEC); Carmen Fabery, Premium Billing Unit (PBU)

Interpreter:



*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:	Community Eligibility – Under 65 Years of Age; Income; Premium Billing
Decision Date:	10/11/2024	Hearing Date:	09/04/2024
MassHealth's Reps.:	Hector Rivera, MassHealth Enrollment Center (MEC); Carmen Fabery, Premium Billing Unit (PBU)	Appellant's Rep.:	Pro se
Hearing Location:	Springfield MassHealth Enrollment Center	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 a notice dated 07/22/2024, MassHealth informed the appellant that it planned to terminate her MassHealth CommonHealth benefits for failing to pay her past due premiums (130 CMR 506.011; Exhibit 1). The appellant filed a timely appeal on 08/02/2024 and she continues to receive her MassHealth CommonHealth benefits pending the outcome of this appeal (130 CMR 610.015; Exhibit 2). Termination of benefits is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth plans to terminate the appellant's MassHealth CommonHealth benefits.

Issue

The issue is whether MassHealth is correct in planning to terminate the appellant's MassHealth CommonHealth for failing to pay her past due premiums.

Summary of Evidence

A MassHealth representative from the PBU and the MassHealth representative from the MEC testified that on 04/24/2024, the appellant was approved for MassHealth CommonHealth benefits as a disabled adult. Her premium was calculated to be \$25.00 per month beginning in May 2024. The premium was based on the appellant's household size of two and the reported income of \$3,037.00 per month, which equals 178.23% of the federal poverty level (FPL).

On 05/22/2024, MassHealth received income verification from the appellant, and she was determined to remain eligible for MassHealth CommonHealth benefits with no premium, beginning in June 2024. Her income was \$2,541.00, which is 149.16% of the FPL.

On 06/25/2024, MassHealth received income verification from the appellant, and she was determined to remain eligible for MassHealth CommonHealth benefits with a premium of \$20.00 per month, beginning in July 2024. Her income was reported as \$2,774.00, which is 162.80% of the FPL.

The notice at issue in the appeal is a termination notice issued by MassHealth on 07/22/2024, which informs the appellant that MassHealth plans to terminate her MassHealth CommonHealth benefits on 08/05/2024, because she owes past due premiums totaling \$45.00 for the premiums due in May 2024 (\$25.00) and in July 2024 (\$25.00). The appellant's benefits are open due to protection on the case pending the appeal. As of the date of the hearing, the appellant has not paid the past due premiums, nor has she entered into a payment agreement for the past due premiums.

The appellant appeared at the fair hearing in person with a friend, and they testified with the assistance of a [REDACTED] interpreter. The appellant testified that she is "old and sick and incurable." She testified that she works and is the only one in the home who does work. She reports that she is about to quit her job so she can obtain MassHealth benefits. She testified she has "diabetes, high blood pressure, back pain, and other general pain issues."

Findings of Fact

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

1. The appellant is an adult who is under the age of 65 and she lives in the community. The

appellant has been determined to be disabled. She is part of a household of two people (Testimony).

2. On 04/24/2024, the appellant was approved for MassHealth CommonHealth benefits as a disabled adult with a \$25.00 per month premium beginning in May 2024. The appellant's reported income was \$3,037.00 per month, which equals 178.23% of the federal poverty level (FPL) for a household of two.
3. On 05/22/2024, MassHealth received income verification from the appellant, and she was determined to remain eligible for MassHealth CommonHealth benefits with no premium, beginning in June 2024. Her income was reported as \$2,541.00, which is 149.16% of the FPL for a household of two.
4. On 06/25/2024, MassHealth received income verification from the appellant, and she was determined to remain eligible for MassHealth CommonHealth benefits with a premium of \$20.00 per month, beginning in July 2024. Her income was reported as \$2,774.00, which is 162.80% of the FPL for a household of two.
5. The appellant has past due premiums from May 2024 for \$25.00 and from July 2024 for \$20.00. Her past due premiums total \$45.00.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*.

(1) Standard - for pregnant women, 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 members, and medically frail as such term is defined in 130 CMR 505.008(F);

(2) ***CommonHealth - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;***

(3) CarePlus - for adults 21 through 64 years of age who are not eligible for MassHealth Standard;

(4) Family Assistance - for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;

(5) Small Business Employee Premium Assistance - for adults or young adults who

- (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
 - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
 - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) Limited - for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) Senior Buy-In and Buy-In - for certain Medicare beneficiaries.

(Emphasis added.)

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. The appellant is categorically eligible for MassHealth Standard and CommonHealth as someone who has been determined to be disabled. As appellant is categorically eligible, the next step is to determine financial eligibility which requires, pursuant to 130 CMR 506.007, that the MassHealth agency construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. For applicants or members who are categorically eligible for MassHealth Standard or CommonHealth due to their disability, MassHealth uses the MassHealth Disabled Adult household composition rules defined at 130 CMR 506.002(C) as:

- (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.

It is undisputed that the household size is two. The appellant also did not dispute her income, as reported to MassHealth. The income limit for MassHealth Standard is 133% of the federal poverty level which is determined by taking the modified adjusted gross income of the MassHealth Disabled Adult household (see 130 CMR 505.002(E)(1)(b)). 133% of the federal poverty level for a household size of two is equal to \$2,266.00. Therefore, appellant's income has to be less than or equal to \$2,266.00 to qualify for MassHealth Standard.

The next step is to determine appellant's modified adjusted gross income which is determined 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) (see 130 CMR 506.007). Regulation 130 CMR 506.003 which is below defines earned income, unearned income and deductions:

(A) Earned Income.

- (1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.
- (4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

- (1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.
- (2) 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.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. The following are allowable 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.

The appellant has not asserted that she has any of the above deductions. At the times relevant to this appeal, the appellant reported her income three times to MassHealth. First, in April 2024, the appellant reported income of \$3,037.00 per month, which equals 178.23% of the federal poverty level. Second, in May 2024 the appellant reported her income to be \$2,541.00, which is 149.16% of the FPL. Finally, in June 2024 the appellant reported her income as \$2,774.00, which is 162.80% of the FPL. At no time relevant to these proceedings did the appellant have income that was less than 133% of the FPL (\$2,266.00 for a household of two). So, she is not financially eligible for MassHealth Standard benefits.

In order to establish eligibility for MassHealth CommonHealth as a disabled adult the appellant must either meet a one-time-deductible in accordance with 130 CMR 506.009 (130 CMR 505.004(C)(5)(a)) or provide verification that she works at least 40 hours per month. In this case, MassHealth had a record of the appellant's employment that met this requirement. Therefore, MassHealth correctly determined that, based on the information it has in its system, the appellant is eligible for MassHealth CommonHealth benefits as a working disabled adult.

Regulations at 130 CMR 506.011(B)(2)(b) provide the formulas that the MassHealth agency uses to determine the monthly premiums for people who are receiving MassHealth CommonHealth, as follows:

The full premium formula for young adults with household income above 150 percent of the FPL, adults with household income above 150 percent of the FPL, and children with household income above 300 percent 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.

(CommonHealth Full Premium Formula Young Adults and Adults above 150% of the FPL and Children above 300% of the FPL)		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150% FPL—start at \$15	Add \$5 for each additional 10% FPL until 200% FPL	\$15 - \$35
Above 200% FPL—start at \$40	Add \$8 for each additional 10% FPL until 400% FPL	\$40 - \$192
Above 400% FPL—start at \$202	Add \$10 for each additional 10% FPL until 600% FPL	\$202 - \$392

Above 600% FPL—start at \$404	Add \$12 for each additional 10% FPL until 800% FPL	\$404 - \$632
Above 800% FPL—start at \$646	Add \$14 for each additional 10% FPL until 1000%	\$646 - \$912
Above 1000% FPL—start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

MassHealth regulations at 130 CMR 506.011(D) address delinquent premium payments as follows:

(1) Termination for Delinquent Premium Payments. If the MassHealth agency has billed a member for a premium payment, and the member does not pay the entire amount billed within 60 days of the date on the bill, the member's eligibility for benefits is terminated. The member will be sent a notice of termination before the date of termination. The member's eligibility will not be terminated if, before the date of termination, the member

- (a) pays all delinquent amounts that have been billed;
- (b) establishes a payment plan and agrees to pay the current premium being assessed and the payment-plan-arrangement amount;
- (c) is eligible for a nonpremium coverage type;
- (d) is eligible for a MassHealth coverage type that requires a premium payment and the delinquent balance is from a CMSP benefit; or
- (e) requests a waiver of past-due premiums as described in 130 CMR 506.011(G).

The appellant has not presented evidence that she meets the requirements of 130 CMR 506.011(J) as a member who is exempted from paying premiums. Therefore, in April 2024, MassHealth correctly used the appellant's gross monthly countable income of \$3,037.00 and correctly determined that her family's income is 178% of the federal poverty level. Because her income level fell between 150% and 200% of the federal poverty level, MassHealth began the premium calculation at \$15.00 and added \$10.00 (\$5.00 for each 10% of the FPL over 150%) to calculate the full premium of \$25.00. The May premium of \$25.00 was correctly calculated by MassHealth.

In May 2024, the appellant reported her income to be at 149% of the FPL, which incurs no monthly premium. MassHealth correctly determined the appellant has no premium due for June 2024.

In June 2024, the appellant reported her income as \$2,774.00, which is 162.80% of the FPL. Using the above formula, because the income was between 150% and 200%, MassHealth started the premium calculation at \$15.00 and added \$5.00 for the first 10% of the FPL she was over 150%. MassHealth correctly calculated the appellant's July premium to be \$20.00.

The appellant provided no evidence that she has paid the past due premiums of \$20.00 for May

2024 and \$25.00 for July 2024. Nor has she shown that she has entered into a payment plan with MassHealth to repay the premiums. Therefore, pursuant to the above regulations, MassHealth correctly informed the appellant that it will terminate her MassHealth CommonHealth benefits for failing to pay the past due premiums totaling \$45.00. This appeal is therefore denied.

Order for MassHealth

Release aid pending. Proceed with termination of the appellant's MassHealth CommonHealth benefits.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104