

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Dismissed in part	Appeal Number:	2412225
Decision Date:	11/6/2024	Hearing Date:	09/13/2024
Hearing Officer:	Scott Bernard	Record Open to:	09/17/2024

Appearances for Appellant:

[Redacted]
telephone

(Spouse) via


Appearances for MassHealth:

Jenna Lanzillo (Springfield MEC); Karishma Raja
(Premium Billing Unit); Roxana Noriega
(Premium Assistance Unit) via telephone



*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:	Approved in part; Dismissed in part	Issue:	Community Under 65-Income/Premium Billing/Premium Assistance
Decision Date:	11/6/2024	Hearing Date:	09/13/2024
MassHealth's Reps.:	Jenna Lanzillo; Karishma Raja; Roxana Noriega	Appellant's Reps.:	
Hearing Location:	Springfield MassHealth Enrollment Center	Aid Pending:	N/A

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 June 16, 2024, MassHealth notified the appellant that she was eligible for MassHealth CommonHealth with a premium of \$683 beginning in July. (See 130 CMR 506.011; Exhibit (Ex.) 2, pp. 14-15; Ex. 5, pp. 8-9). Through a notice dated August 1, 2024, MassHealth notified the appellant that she was eligible for MassHealth CommonHealth. (See Ex. 2, p. 20). In a separate notice sent on the same date, MassHealth also notified the appellant that she was eligible to receive \$133.00 per month for Premium Assistance. (See 130 CMR 506.012 and Ex.1). Through a notice dated August 6, 2024, MassHealth notified the appellant that she was eligible for MassHealth CommonHealth with a premium of \$91 beginning in September. (See 130 CMR 506.011; Ex. 5, pp. 6-7). The appellant filed this appeal in a timely manner on August 7, 2024. (See 130 CMR 610.015(B) and Ex. 2). MassHealth determinations concerning a member's income and the effect of that determination on the calculation of the member's premiums and Premium Assistance are grounds for appeal. (See 130 CMR 610.032).

At the conclusion of the hearing, the record was held open until September 17, 2024 for

MassHealth to submit further information concerning the household's income into the hearing record, after which the record closed. (Ex. 7).

Action Taken by MassHealth

MassHealth notified the appellant of changes to her premium and/or Premium Assistance on June 16, 2024, August 1, 2024, and August 6, 2024.

Issue

The appeal issues are whether MassHealth correctly determined the appellant's household income and what effect, if any, this had on the calculations of her premiums and Premium Assistance and whether income calculations older than June 16, 2024 can be dealt with through this hearing process.

Summary of Evidence

A benefits eligibility representative from the Springfield MassHealth Enrollment Center (MEC), a MassHealth Premium Billing Research Specialist, a MassHealth Premium Assistance Investigation Specialist, the appellant, and her spouse attended the hearing by telephone.

Before the beginning of the testimony, however, the appellant took pains to refer to two written statements and other documents she submitted prior to the hearing. (Testimony; Ex. 2; Ex. 6). In the first, which the appellant submitted with her appeal on August 7, 2024, she stated the following:

I am writing at this time to inform you of errors made on the part of MassHealth and to request reimbursement of overpaid premiums. In January of 2022, my husband lost his Job [with Employer One] and as of February, 2022 we started paying COBRA premiums. I immediately notified MassHealth Eligibility (by phone with a representative as Eligibility does not provide an e-mail address) and Premium Assistance¹...of our status and in March, 2022 we began receiving [Premium Assistance payments for the COBRA].[Ex. 2, pp. 3-7]².

On July 1, my husband's health insurance from his new job [with Employer Two] took effect and I again immediately contacted MassHealth Eligibility and Premium Assistance with the status change. [Ex. 2, p. 8]. In response, [Premium Assistance]

¹ The appellant named this individual, who was not the same individual who represented Premium Assistance at the hearing. The hearing officer has chosen to replace this and all other proper names of any MassHealth affiliated personnel with an appropriate job descriptor.

² Bracketed citations are to documents the appellant submitted with this document.

Informed me where to return the July check if it arrived. [Id.]. We received a COBRA check for \$2542.74 for July, 2022 which we returned as instructed.

In September of 2022, after receiving what appeared to be an enormous premium increase along with several errors (see attached letter of 9/7/22)[.] [Ex. 2, pp. 9-10] I reached out to Premium Billing and Premium Assistance (see e-mails with [the Premium Assistance person]) and things seemed to be squared away. [Ex. 2, p.11].

The next pertinent correspondence arrived in April, 2023 when we were told that our payment would be \$331 per month starting in May. [Ex. 2, pp. 12-13]. From May, 2023 until April, 2024 we paid \$331 per month. For some reason in May, 2024 the premium dropped to \$273 which continued in June. The July bill came in at \$683 (notice received on June 16 when we were away). [Ex. 2, pp. 14-15]. I started e-mailing [the Premium Assistance person] again in July (twice) without a response. When I did not hear back, I called Premium Billing, who transferred me to Eligibility. I spoke to [a MassHealth Benefits Eligibility Representative] in Taunton who went over everything with me including income verification since I couldn't understand the sudden increase. During the review, he mentioned my husband's "two jobs," My husband does not and never had two jobs. It turns out that his original job [with Employer One] had not been removed from the system in Feb, 2022 despite my call to Eligibility informing them of his job loss. This makes no sense since our COBRA premiums were being subsidized for five months and Eligibility was notified in both February when he lost his Job, and July when his new job began.

This could have come up on any of the occasions when I reached out to Eligibility, but somehow it never did. I supplied our most recent tax return and schedules to [the Taunton Benefits Eligibility Representative] and he told us that our new premium bill (based on corrected Information) would be \$93 per month. For August 1, he estimated \$133 but reduced it to \$93 after seeing our final documents.

Assuming this \$93 premium should have been in place since May of 2023, we have overpaid by \$3216. As of today, we have not paid the July bill of \$683 since we were made aware that the amount we were being charged was incorrect. We would like to have that amount changed to the correct \$93 amount, and be reimbursed for the overpayment of \$3216 $((331-93)*12+(273-93)*2 = 3216)$.

We would like to have our hearing as soon as possible. We can come In person, have a phone hearing, or a video call -whichever is quickest.

I have always notified the appropriate departments when things changed, Clearly someone dropped the ball, and it has cost us In both money and anxiety. We hope this can be resolved as soon as possible. (Ex. 2, p. 2).

In the second statement, dated August 19, 2024, the appellant wrote:

Since our initial request for hearing on August 7, a few more things need to be addressed. First, on August 8 we received a check for \$133 from Premium Assistance [Ex. 6, p. 2] that we believe we are not entitled to after our conversation with [the Benefits Eligibility Representative] in Taunton and the Aug. 6 update (see attached [Ex. 6, pp. 3-4]) which states that we owe Premium Billing \$91 per month and should not be receiving money. As of now, we are not planning to cash this check.

Given the letter of Aug. 6, the formula that we used in the original request was off by \$2 per month, and the requested refund should be: $\$3244 ((331-91)*12+(273-91)*2 = 3244)$. That being said, I had a conversation with [a second representative] from Premium Assistance early last week. She informed me that we would receive a refund if there were two jobs listed incorrectly by Eligibility. She also said that from May, 2023 to May, 2024 we were a household of 3 (until our son turned [REDACTED] so our refund would be larger, since we would receive more assistance for the extra household member. [The second Premium Assistance person] was calculating what that difference would be, and I understand that that information will be available for our hearing on Sept. 13. She was also trying to have our premium bills (for July and August which now show \$1366 as overdue) reduced to our current rate of \$91 per month. Once those bills are adjusted, I can make that payment.

We look forward to our hearing on September 13 and to getting these issues resolved. (Ex. 6, p. 1).

In the appellant's submissions, she included partial copies of MassHealth notices dated September 7, 2022, April 10, 2023; June 16, 2024, August 1, 2024, and August 6, 2024. (Ex. 2, pp. 9-10, 12-13,14-15,20; Ex. 6, pp. 3-4).

The MassHealth representative testified first and provided the following overview. The appellant is an individual under 65 years of age. (Testimony; Ex. 3). Until June 2024, she was part of a Modified Adjusted Gross Income (MAGI) household of three, which included her spouse and son. (Testimony; Ex. 7). In June 2024, the appellant's son turned [REDACTED] years old, resulting in a change to the household composition. (Testimony). The appellant's household now consists of just herself and her spouse, while her son is considered to live in a separate household of one for eligibility determination purposes. (Testimony). The appellant is a recipient of MassHealth CommonHealth coverage. (Testimony; Ex. 3).

On June 16, 2024, MassHealth verified the appellant's monthly income through a data match with the Federal Hub. Based on such income, MassHealth calculated a monthly CommonHealth premium of \$683.00 to begin July 1, 2024. (Testimony; Ex. 2, pp. 14-15; Ex. 5, pp. 8-9). The appellant then contacted MassHealth and self reported monthly income. As a result, MassHealth adjusted the income, and sent the appellant a notice dated August 1, 2024 informing her that she

continues to be eligible for CommonHealth and, in a separate notice on the same date, that she was eligible for Premium Assistance payments of \$133 beginning in September, 2024. (Testimony; Ex. 1; Ex. 2, p. 20). On August 6, 2024, a MassHealth benefits eligibility worker verified the appellant's monthly income. MassHealth notified the appellant that her CommonHealth premium would be adjusted to \$91.00 per month beginning in September, 2024 based on the verified income. (Testimony; Ex. 5, pp. 6-7; Ex. 6, pp. 3-4).

When asked what the household's gross monthly income (GMI) or its components were, the MassHealth representative informed the hearing officer that she did not have the exact amounts available. (Testimony). For that reason, the hearing officer requested that she submit this information to him after the hearing and send a copy to the appellant. (Ex. 7, p. 5).

The Premium Billing representative testified to the following. MassHealth billed the appellant \$683 per month in July and August 2024. (Testimony; Ex. 5, pp. 8-9, 10). As a result of the August 6, 2024 redetermination, MassHealth lowered the appellant's premium to \$91.00 per month beginning in September. (Testimony; Ex. 5, pp. 6-7, 10). The total amount of premium the appellant currently owes is \$1,457 for the months of July, August, and September 2024. (Testimony; Ex. 5, p. 10). As of the date of the hearing, the appellant's premiums continued to be unpaid but were not past due as yet. (Testimony).

The appellant testified to the following. The appellant believed that her premium calculations going back to 2023 were based on incorrect income information. (Testimony). Specifically, MassHealth continued to count the income from her spouse's previous employment. (Testimony). The appellant stated that in February 2022, she reported to MassHealth that her spouse was no longer working for this employer. (Testimony). Apparently, however, MassHealth continued to count this income, even after the appellant reported that her spouse was working for a new employer later in 2022. (Testimony). The appellant stated that all of MassHealth's premium calculations since it began billing premiums again have therefore been incorrectly inflated. (Testimony). The appellant wanted MassHealth to reimburse her for the entirety of the overcharged premiums. (Testimony).

The Premium Assistance Representative explained that the family had been receiving Premium Assistance, but due to the high required member contribution, much of the assistance went toward covering the spouse's premium bills. (Testimony). Because the appellant's member contribution was lowered in August, the appellant was eligible to receive a separate Premium Assistance check of \$133. (Testimony). The Premium Billing representative discussed setting up a repayment plan with the appellant for the three months of unpaid premiums. (Testimony).

After the hearing, the MassHealth representative submitted income information for the household extending back to February 2022. (Ex. 7). This did support the appellant's assertion that MassHealth continued counting the income from Employer One from February 22, 2022 through June 16, 2024, as well as the income from Employer Two from September 1, 2022 through August 6, 2024, the last date for which the MassHealth representative provided information. (Ex. 7, pp. 3-

4).

Otherwise, the information provided demonstrated the following household income information. (Ex.7). On June 16, 2024, the appellant was living in a household of two, with GMI of \$20,915.24 consisting of income from both Employers One and Two for the appellant's spouse, as well as income from various non-employment sources for both the appellant and her spouse. (Ex. 7, pp. 1, 4). This placed the household of two at 1,222.47% of the FPL. (Id.). On August 1, 2024, the appellant was living in a household of two, with self reported GMI of \$11,276.05 consisting of the spouse's earned income from just Employer Two, as well as income from various non-employment sources for both the appellant and her spouse. (Ex. 7, pp. 1-2. 4). This placed the household at 656.74% of the FPL. (Id.). On August 6, 2024, the appellant was living in a household of two, with verified GMI of \$14,257.39 consisting of the spouse's earned income from just Employer Two, as well as income from various non-employment sources for both the appellant and her spouse. (Ex. 7, pp. 2, 4). This placed the household at 831.76% of the FPL. (Id.).

Findings of Fact

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

1. The appellant is an individual under 65 years of age. (Testimony; Ex. 3).
2. Until June 2024, the appellant was part of a MAGI household of three, which included her spouse and son. (Testimony; Ex. 7).
3. In June 2024, the appellant's son turned ■ years old, resulting in a change to the household composition. (Testimony).
4. The appellant's household now consists of herself and her spouse, while her son is considered to live in a separate household of one for eligibility determination purposes. (Testimony).
5. On June 16, 2024, using information gathered from the Federal Hub, MassHealth determined that the appellant was living in a household of two with a GMI of \$20,915.24, which placed the household at 1,222.47% of the FPL. (Testimony; Ex. 7, pp. 1, 4).
6. The calculation of the GMI included income from the appellant's spouse's Employer One as well as Employer Two. (Ex. 7, pp. 1, 4).
7. MassHealth issued a notice on that date informing the appellant that her premium would increase to \$683.00 beginning in July. (Testimony; Ex. 2, pp. 14-15; Ex. 5, pp. 8-9).
8. On August 1, 2024, the appellant reported a change to her household income. (Testimony).
9. On that date, the self reported household GMI was \$11,276.05, placing the household of

two at 656.74% of the FPL. (Ex. 7, pp. 1-2. 4).

10. The income calculation did not include the income from the spouse's Employer One. (Ex. 7, pp. 1-2. 4).
11. MassHealth notified the appellant on August 1, 2024 that she was eligible for CommonHealth and, separately, that she was eligible for a Premium Assistance payment of \$133 beginning in September. (Testimony; Ex. 1; Ex. 2, p. 20).
12. On August 6, 2024, a MassHealth benefits eligibility worker verified the appellant's income. (Testimony).
13. On that date the verified household GMI was \$14,257.39 consisting of the spouse's earned income from just Employer Two, as well as income from various non-employment sources for both the appellant and her spouse and this placed the household at 831.76% of the FPL. (Ex. 7, pp. 2, 4).
14. MassHealth notified the appellant that her premium would be adjusted to \$91.00 per month beginning in September. (Testimony; Ex. 5, pp. 6-7; Ex. 6, pp. 3-4).
15. As of the date of the hearing, the appellant owed outstanding premiums for the months of July, August, and September 2024 totaling \$1,457, which were not yet past due. (Testimony; Ex. 5, p. 10).
16. In the appellant's pre-hearing submissions, she included partial copies of MassHealth notices dated September 7, 2022, April 10, 2023; June 16, 2024, August 1, 2024, and August 6, 2024. (Ex. 2, pp. 9-10, 12-13, 14-15, 20; Ex. 6, pp. 3-4).

Analysis and Conclusions of Law

The date of request for a fair hearing is the date on which BOH receives such a request in writing. (130 CMR 610.015(B)). In order to be considered a timely request for a hearing, the MassHealth Board of Hearings must receive that request within 60 days after the member receives written notice from MassHealth of the intended action. (130 CMR 610.015(B)(1)). In the absence of evidence or testimony to the contrary, it will be presumed that the member received the notice on the fifth day after mailing. (130 CMR 610.015(B(1), (C)(2))).

The appellant has requested that MassHealth be ordered to adjust income calculations going back to February 2022, recalculate her premiums, and reimburse her for any overpaid premiums received during this time.

The record shows that the date on which BOH received the appellant's request for a fair hearing was August 7, 2024. Based on this date, the earliest notice over which BOH would have jurisdiction

would be the notice MassHealth issued on June 16, 2024 as well as the notices issued thereafter. With regard to any earlier notices, the appellant's fair hearing request was not submitted in a timely manner and I have no jurisdiction over such issues. Any appeal pertaining to notices issued prior to June 7, 2024 is dismissed pursuant to 130 CMR 610.035(A)(1).

The notices dated June 16, 2024, August 1, 2024, and August 16, 2024 were timely appealed and at issue in this hearing. MassHealth utilized incorrect income information in its June 16, 2024 notice and for that reason the July and August premiums were incorrectly calculated and should be corrected. There was no testimony regarding whether the appellant's spouse's employer sponsored health insurance meets MassHealth criteria, but in light of the premiums calculated, it is assumed that such coverage meets criteria. The Premium Assistance representative did not testify to the amount the appellant's spouse pays in monthly health insurance premiums, but such amount can be figured out based on the appellant's income and MassHealth's premium calculations.

The regulation setting forth criteria for Premium Assistance for CommonHealth members is at 130 CMR 506.012 and states in part:

The required member contribution for adults with household MAGI above 150% of the FPL and children with household MAGI above 300% of the FPL is provided as follows.

CommonHealth Required Member Formula Adults above 150% FPL and Children above 300% FPL		
Base Premium	Additional Premium Cost	Range of 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

3. CommonHealth members who are eligible to receive a premium

assistance payment as described in 130 CMR 506.012 that is less than the CommonHealth required member contribution receive their premium assistance payment as an offset to the CommonHealth monthly premium bill and are responsible for the difference.

(130 CMR 506.012(D)(2)(a)(2.), (3.)).

In the June 16, 2024 notice, MassHealth erroneously counted income from the appellant's spouse's previous job, as well as the current job, resulting in a total income calculation of \$20,915.24, which is 1227% of the federal poverty level for a family of two. MassHealth allows a deduction of 5 percentage points in determining countable income, thus the appellant's countable monthly income was 1222% of the federal poverty level. Using the chart above, such income results in a monthly member contribution of \$1,280.00. Because MassHealth charged a monthly CommonHealth premium of \$683.00, the appellant's spouse's monthly health insurance premium amount must be \$597.00 ($\$683 + \$597 = \$1,280$). As noted, MassHealth should not have counted the spouse's previous income, thus the premium calculation of \$683.00 is incorrect.

After the June 16, 2024 notice, the appellant self reported monthly income of \$11,276.05. Such income is 661% of the federal poverty level, or 656% after deducting the 5 percentage points. Based on a countable income of 656% of the federal poverty level, the appellant's monthly member contribution would be \$464.00 based on the above chart. If the appellant's spouse pays \$597.00 in monthly health insurance premiums, the premium assistance amount would be \$133.00 ($\$597 - \$464 = \133) as noted by MassHealth in the August 1, 2024 notice. Although MassHealth calculated this amount correctly based on the above chart, the whole calculation was based on unverified income and is therefore incorrect.

The appellant's income was finally verified on August 6, 2024 as \$14,257.39 a month, which is 836% of the federal poverty level for a family of two. Again, MassHealth allows a deduction of 5 percentage points in determining countable income, thus the appellant's countable monthly income is 831% of the federal poverty level.

Based on the appellant's FPL of 831%, her required member contribution beginning June, 2024 is \$688.00. If the appellant's spouse pays \$597.00 a month for health insurance premiums, the appellant's monthly CommonHealth premium is \$91.00 ($\$688 - \$597 = \91). MassHealth calculated this amount in its most recent notice dated August 6, 2024.

Again these calculations are based on the assumption that MassHealth has determined that the appellant's spouse's health insurance meets MassHealth criteria for Premium Assistance and that the appellant's spouse is paying \$597.00 a month in health insurance premiums. If this information is incorrect, MassHealth should update and issue a new notice.

Based on the appellant's verified monthly household income of \$14,257.39, MassHealth shall

recalculate the appellant's premiums to be \$91.00 a month beginning July 1, 2024. The appellant is to return the premium assistance check in the amount of \$133.00 as such premium assistance was based on incorrect, unverified income.

For the above stated reason, the appeal is APPROVED IN PART

Order for MassHealth

Recalculate the appellant's premiums to be \$91.00 a month beginning July 1, 2024.

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.

Scott Bernard
Hearing Officer
Board of Hearings

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

Maximus Premium Billing, Attn: Karishma Raja, 1 Enterprise Drive, Suite 310, Quincy, MA 02169

Premium Assistance, UMASS - Schrafft's Center, 529 Main St., 3rd Floor, Charlestown, MA 02129