

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2412435
Decision Date:	11/6/2024	Hearing Date:	09/10/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Ana Duverge-Roy, Springfield MEC
Carmen Fabery, Business Analyst, Maximus
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

Appeal Decision:	Denied	Issue:	Eligibility; Under 65; Premium Billing
Decision Date:	11/6/2024	Hearing Date:	09/10/2024
MassHealth's Rep.:	Ana Duverge-Roy; Carmen Fabery	Appellant's Reps.:	<i>Pro se</i> ; Husband
Hearing Location:	Board of Hearings, Remote	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 dated 7/31/24, MassHealth informed Appellant that her minor son was re-approved for CommonHealth with a monthly premium of \$786 starting August 2024. See Exh. 1. Appellant filed this appeal in a timely manner on 8/12/24. See 130 CMR 610.015(B) and Exhibit 2. Challenging the amount and scope of assistance is a valid basis for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth increased the premium for her minor son's CommonHealth coverage to \$786 per month starting August 2024.

Issue

The appeal issue is whether MassHealth was correct in charging Appellant a monthly premium of \$786 to maintain her minor son's CommonHealth coverage.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing and testified to the following: Appellant, her husband, and minor son are in a household size of three. Appellant's son is under the age of ■ and has a verified disability. In February of 2024, Appellant's son's MassHealth benefit changed from Standard to CommonHealth, and Appellant was notified that she would be charged a premium for her son's new coverage of \$120 per month based on the reported household income at that time. On or around 7/31/24, MassHealth received updated and current bi-weekly paystubs for Appellant's spouse. Because multiple paystubs were provided with varying income amounts, MassHealth took the average of all the paystubs, which reflected a bi-weekly income of \$9,053, placing Appellant and her son at 906.82% of the federal poverty level (FPL). As a result of the change, MassHealth notified Appellant, through a letter dated 7/31/24, that the monthly premium for her son's CommonHealth coverage would increase to \$786 monthly starting August 2024. See Exh. 1.

A representative from MassHealth's premium billing unit testified that, pursuant to unpaid premiums for the months of August and September, each billed at \$786, Appellant has an outstanding balance of \$1,572.00 on her account. See Exh. 5. The premium billing representative submitted a payment and transaction history report which also included the current invoice, which was not yet due, but would bring the total account balance to \$2,358.00. Id.

Appellant and her husband appeared at hearing by telephone. They did not dispute the income reported by MassHealth, which they acknowledged was the average gross income reflected in the most recent paystubs provided. Appellant argued, however, that her husband's income has increased significantly due to a temporary need to work overtime at his work and does not reflect his actual base salary or income throughout the year. In a previous conversation with someone from MassHealth, Appellant and her husband were told that the income derived from overtime would not be counted for eligibility purposes because it was not a consistent form of income. They were caught off-guard when they received the 7/31/24 update in premium, which exceeds their ability to pay. Appellant's husband testified that MassHealth benefits for their son have been extremely helpful and that the initial premium of \$120 was manageable. This income, however, is the only source of income for the household and is used to pay for all other cost of living expenses, including oil, utilities, groceries, and basic necessities. Although he still receives additional income through overtime, he does not know how long this will last and is at some point expected to end. There is no way he can routinely pay the premium amount for his son's coverage on an ongoing basis.

In response, the MassHealth eligibility representative explained that premiums are based on the household income. If and when the husband's work schedule returns to normal, he can submit updated paystubs to MassHealth reflecting any decrease in income, and, at that time, MassHealth will adjust the monthly premium accordingly. In addition, the premium billing representatives responded that she would speak with Appellant and her spouse following the

hearing to discuss options should they wish to enter into a payment plan.

Findings of Fact

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

1. Appellant, her husband, and minor son - who is under the age of [REDACTED] and has a verified disability - are in a household size of three.
2. In February of 2024, Appellant's son's MassHealth benefit changed from Standard to CommonHealth, and Appellant was notified that she would be charged a premium for her son's new coverage of \$120 per month based on their household income which placed them at 482.82% of the FPL.
3. On or around 7/31/24, MassHealth received multiple updated paystubs for Appellant's spouse, which reflected an average bi-weekly income of \$9,053, placing them at 906.82% of the FPL.
4. The increase in income, reflected in the updated paystubs, was based on wages received through working overtime.
5. As a result of the updated income, MassHealth notified Appellant, through a letter dated 7/31/24, that the monthly premium for her son's CommonHealth coverage would increase to \$786 monthly starting August 2024.
6. As of the hearing date, Appellant had two outstanding bills for the August and September premiums of \$786 each, leaving Appellant with a total outstanding balance of \$1,572.00.
7. As of the hearing date, Appellant's household income had not decreased from the average bi-weekly income of \$9,053.

Analysis and Conclusions of Law

At issue in this appeal is whether MassHealth correctly imposed a monthly premium of \$786 for Appellant's son's CommonHealth coverage. MassHealth regulation 130 CMR 505.004 sets forth the categorical requirements and financial standards to qualify for CommonHealth. Here, there is no dispute that Appellant's son, who is a minor, younger than the age of [REDACTED] is categorically eligible for CommonHealth under 130 CMR 505.004(G) *Disabled Children Younger than [REDACTED] Years Old*. Individuals who meet the categorical requirements for CommonHealth and have income

over 150% of the FPL “may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2).” See 130 CMR 505.004(l); see also 130 CMR 506.011.¹ These premiums are calculated “based on a member’s household modified adjusted gross income (MAGI), their household size, and the premium billing family group (PBF) rules as described in 130 CMR 506.011(A). *Id.* The premium formulas for CommonHealth members eligible under 130 CMR 505.004, provide, in relevant part, the following:

(2) The premium formulas for MassHealth CommonHealth members whose eligibility is described in 130 CMR 505.004(B): *Disabled Working Adults* through (G): *Disabled Children Younger than ■ Years Old* are as follows.

....

(b) The full premium formula for young adults with household income above 150% of the FPL, adults with household income above 150% of the FPL, and children with household income above 300% 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

130 CMR 506.011(B)(2).

To determine whether Appellant’s premium is correct, it is first necessary to ensure MassHealth used the correct household MAGI for Appellant’s son. Under MassHealth regulations, an

¹ Under 130 CMR 506.011(J), MassHealth describes certain groups that are exempt from paying a premium. There is no evidence to suggest any of the exemption criteria apply in this case.

individual's countable income is the sum of the MAGI-based income of every individual included in the individual's household (with exceptions of children and tax dependents not expected to file tax returns). See 130 CMR 506.007(A)(2)(a). MassHealth counts *both* earned and unearned income, less deductions described in 130 CMR 506.003(D).² See 130 CMR 506.003. Countable earned income encompasses, in relevant part, the following:

- (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.

See 130 CMR 506.003(A).

The evidence shows that Appellant's son is in a household size of three, comprised of himself and his parents. It is undisputed that Appellant's husband is the only source of income for the household and that, as of the hearing date, he received an average gross bi-weekly income of \$9,053. This amounts to an average monthly income of \$19,613.³ Appellant argued that much of the husband's income is comprised of overtime wages and thus does not reflect his base salary. MassHealth, however, considers wages earned though overtime as a form of countable income under 130 CMR 506.003(A). Additionally, MassHealth accounted for the fluctuations in household income by taking the average amount of all paystubs received. There was no evidence to indicate that, as of the hearing date, Appellant's average income had decreased. The evidence therefore shows that the correct countable household income for Appellant's son is \$9,053 bi-weekly or \$19,613 per month.

According to the 2024 MassHealth Income Standards and Federal Poverty Guidelines, 100% of the federal poverty level (FPL) for a household of three is \$2,152 per month or \$25,824 per year. A MAGI of \$19,613 per month for a household of three puts Appellant at 911.39% of the FPL.⁴ From this percentage, MassHealth correctly subtracted "five percentage points of the current FPL...from the applicable household total income," placing Appellant at an FPL of 906%. See 130 CMR 506.007(A)(3).

Next, to determine the full monthly premium for a disabled child with income at 906% of the

² Under federal law, the following deductions are allowed when calculating MAGI countable income: (1) educator expenses; (2) reservist/performance artist/fee-based government official expenses; (3) health savings account; (4) moving expenses, for the amount and populations allowed under federal law; (5) one-half 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; (11) scholarships, awards, or fellowships used solely for educational purposes; (12) and other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law. See 130 CMR 506.003(D). There is no evidence that any of these deductions apply in this case.

³ $(\$9,053 / 2) \times 4.333 = \$19,613$. See 130 CMR 506.007(A)(2)(c) (in determining monthly income, MassHealth multiplies the average weekly income by 4.333).

⁴ $[(\$19,613 / \$2,152) \times 100 = 911.39]$. See 130 CMR 506.007(C).

FPL, MassHealth must apply the formula set forth in the above chart entitled “*CommonHealth Full Premium Formula ... Children above 300% of the FPL*”. See 130 CMR 506.011(B)(2)(b). The base premium for children with MAGI between 800% through 999.99% of the FPL, is \$646. Id. MassHealth then adds \$14 for each 10% increment the member’s FPL exceeds 800%. Because Appellant’s FPL falls between 900% to 909.99%, MassHealth correctly added \$140 (10 units of \$14) to the base premium of \$646 to arrive at the correct premium of \$786 per month.

As there was no error by MassHealth in calculating Appellant’s premium, 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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

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