

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2413166
<b>Decision Date:</b>	11/18/2024	<b>Hearing Date:</b>	10/01/2024
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Souza, Taunton MassHealth Enrollment  
Center; Karishma Raja, Premium Billing  
Department



*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>	Over 65; Eligibility; Premium Billing
<b>Decision Date:</b>	11/18/2024	<b>Hearing Date:</b>	10/01/2024
<b>MassHealth's Rep.:</b>	Kelly Souza, 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 August 6, 2024, MassHealth approved the appellant for MassHealth CommonHealth benefits and imposed a monthly premium of \$212.00. *See* 130 CMR 506.011(B)(2)(b) and Exhibit 1. The appellant filed this appeal in a timely manner on August 23, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging the calculation of a monthly premium is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved the appellant for MassHealth CommonHealth benefits and imposed a monthly premium of \$212.00.

### Issue

The appeal issue is whether MassHealth correctly calculated the appellant's monthly premium.

## Summary of Evidence

The appellant is an adult over the age of 65 who resides in a household with her spouse. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center and a worker from the MassHealth Premium Billing. Department. All parties appeared by telephone. The following is a summary of the testimony and evidence presented at the hearing:

The appellant has received MassHealth CommonHealth benefits since at least 2006. After renewing her application on or about August 6, 2024, MassHealth approved her CommonHealth coverage with a premium of \$212.00, based on the appellant's reported income. The premium start date was September 1, 2024. MassHealth verified that the appellant receives \$1350.00 in monthly social security benefits, while her spouse earns \$5780.00 in monthly wages. This amount equates to approximately 413% of the federal poverty level, which is the figured used to determine the appellant's premium.

The appellant agreed with MassHealth's verification of her social security benefits. She reported that her spouse earns \$30.32 an hour and works 40 hours per week. At the hearing, the parties calculated that to equal a weekly income \$1212.80, which is a monthly income of \$5255.43. This equals \$6605.06 as a combined total income, which is approximately 387.77% of the federal poverty level. The appellant testified that she is unable to afford the \$212.00 per month CommonHealth premium.

## Findings of Fact

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

1. The appellant is an adult over the age of 65 who resides in a household with her spouse and is currently receiving MassHealth CommonHealth benefits. Testimony, Exhibit 1, Exhibit 4.
2. On Augus 6, 2024, after MassHealth processed the appellant's renewal application, approved her for MassHealth CommonHealth benefits, and imposed a monthly premium of \$212.00 with a start date of September 1, 2024. Exhibit 1.
3. The appellant filed this timely request for fair hearing on August 23, 2024. Exhibit 2.
4. The appellant receives \$1350.00 in gross social security benefits. Her spouse earns approximately \$5255.43 in monthly wages. That income combines to a total gross monthly income at 387.77% of the federal poverty level. Testimony.

## Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002. However, "[f]inancial eligibility for all MassHealth CommonHealth applicants and members is based on the regulations in 130 CMR 506.000... 130 CMR 520.000...does not apply." 130 CMR 519.012(C).

Individuals eligible for MassHealth CommonHealth may be assessed a premium if their total household income exceeds certain limits. See 130 CMR 505.004(I). MassHealth determines an applicant's modified adjusted gross income (MAGI) 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). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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(C). Income of all the household members forms the basis for establishing an individual's eligibility. A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(K).

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. 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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

Per 130 CMR 506.003(B), countable income includes, in relevant part, unearned income "including, but 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." Earned income including "wages, salaries, tips, commissions, and bonuses" is also considered countable income. 130 CMR 506.003(A)(1).

As stated, *supra*, a monthly premium may be charged 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(B)(2)(b):

(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.

The regulation includes a formula for young adults and adults above 150% and children above 300% of the FPL. For households whose income exceeds 200%, the base premium is \$40.00 per month and is increased by \$8 for every 10% of the FPL the household income exceeds. 130 CMR 506.011(B)(2)(b).

An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” 130 CMR 610.085(A).

In this case, because the appellant’s income is greater than 200% of the federal poverty level, but less than 400%, she is first obligated to contribute a base monthly premium of \$40.00 per month. That base premium is then increased by \$8.00 for each additional 10% of the federal poverty level which, in this case, would equate to 8 x 18, or an additional \$144.00. Therefore, the appellant’s monthly premium should have been assessed at \$184.00, not \$212.00. I find that MassHealth erred in assessing a premium that was too high with the August 6, 2024, approval notice.

For the foregoing reasons, the appeal is hereby approved.

If the imposed premium is still too expensive for the appellant to afford, she may submit an application for a hardship waiver pursuant to 130 CMR 506.011(G).

## **Order for MassHealth**

Adjust the appellant’s monthly premium to \$184.00, retroactive to September 1, 2024.

## **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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Mariah Burns  
Hearing Officer  
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

MassHealth Representative: Karishma Raja, Premium Billing Department