

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2413191
Decision Date:	11/13/2024	Hearing Date:	09/23/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
David Kang – Springfield Enrollment Center
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

Appeal Decision:	Denied	Issue:	Community Eligibility; Over-65; Income; CommonHealth Premium
Decision Date:	11/13/2024	Hearing Date:	09/23/2024
MassHealth's Reps.:	David Kang; Karishma Raja	Appellant's Rep.:	Pro se
Hearing Location:	Telephonic	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 August 6, 2024, MassHealth approved the appellant for CommonHealth benefits, and assessed him a \$104 per month premium. (Exhibit 1; 130 CMR 506.011.) The appellant filed this appeal in a timely manner on August 23, 2024. (Exhibit 2; 130 CMR 610.015(B).) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth approved the appellant for CommonHealth benefits and assessed a premium of \$104 per month.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.011, in determining that the appellant owes \$104 per month as a CommonHealth premium.

Summary of Evidence

The appellant is over the age of 65, and he lives with his wife. The appellant suffered a brutal attack decades ago that left him disabled, and he receives \$1,821.70 per month in Social Security benefits. The appellant's wife receives \$570.70 per month in Social Security and \$3,719.50 per month from a private pension. Together the household's income is equivalent to 353% of the federal poverty level for a household of two. The appellant has been covered by CommonHealth benefits since at least 2012, and MassHealth's representative confirmed that he no longer needed to satisfy the working requirement for CommonHealth benefits for individuals over the age of 65. The appellant testified that he was historically charged nine dollars per month, and for the last few years he did not have a premium at all for CommonHealth.

MassHealth's representative testified that the agency was not charging the appellant a CommonHealth premium during the Federal Public Health Emergency ("FPHE") related to Covid-19. During the FPHE, the federal government was protecting benefits, which resulted in the appellant not having a premium. The appellant was also in the last group of MassHealth members to have their eligibility renewed following the end of the FPHE in April 2023. Finally, MassHealth's representative testified that the appellant's wife's income had never been listed on his account before. The appellant listed his wife's income for the first time on this renewal, which resulted in the restarting of his CommonHealth premium at a much higher rate.

The appellant felt that his wife's income should not be considered in determining his eligibility for MassHealth coverage. He also objected to the income MassHealth used as being counted before taxes or Medicare premiums were deducted. The appellant testified that he only receives \$1,531 per month in his bank account. The appellant testified that he had been to his local Council on Aging to speak with a SHINE counselor to see if he could afford to cancel his CommonHealth coverage. However, the appellant is diabetic, and he takes a specific diabetes medication that is not covered by most Medicare policies. The appellant appealed to have his CommonHealth premium compassionately reduced because he could not afford to contribute to his household expenses at the same level if he needs to pay this premium, and he did not want to have to lose his CommonHealth coverage because then he would likely need to switch diabetic medications or pay a larger amount for the medication he uses.

MassHealth's Premium Billing representative explained that the first bill was mailed out on September 21, 2024, to cover his October 2024 premium. She also explained that the appellant is allowed to withdraw from CommonHealth and not be charged a premium if he withdraws within 60 days from the CommonHealth approval notice. This deadline would have been October 6, 2024. The Premium Billing representative also explained the process for applying for a hardship waiver. However, because this would require showing an extreme financial hardship, and the appellant's spouse was able to cover the household's bills, the appellant did not believe that he would qualify for a hardship waiver.

Findings of Fact

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

- 1) The appellant is over the age of 65, he lives with his spouse. (Testimony by the appellant; Exhibit 5.)
- 2) The appellant receives \$1,821.70 per month in gross Social Security benefits. The appellant's wife receives \$570.70 per month in gross Social Security and \$3,719.50 per month from a private pension. (Testimony by MassHealth's representative; testimony by the appellant.)
- 3) The appellant was disabled decades ago from a physical attack, and he has been covered by MassHealth CommonHealth benefits for over 10 years. (Testimony by the appellant; Exhibit 5.)
- 4) On August 6, 2024, MassHealth approved the appellant for CommonHealth coverage with a \$104 per month premium. (Exhibit 1.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. One of the major dividing lines for eligibility is the age of 65. Individuals aged 65 and older are generally governed by the regulations at 130 CMR 515.000-520.000, and those under 65 are typically determined by the regulations at 130 CMR 501.000-508.000.

MassHealth Standard benefits are generally available to individuals over the age of 65 with income below the federal poverty level. (See 130 CMR 519.002.) A disabled adult aged 65 or older may qualify for CommonHealth coverage with income in excess of the federal poverty level. CommonHealth coverage for individuals over 65 is for "working disabled adults ... [which] means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3) and (5) to be eligible for CommonHealth." (130 CMR 519.012(A)(1).) Members "who were enrolled in MassHealth CommonHealth for at least ten years" may remain on CommonHealth "whether they work or not." (EOM 23-19 (Aug. 2023).)

Financial eligibility for CommonHealth benefits "as described in 130 CMR 505.004(B)" is determined using the under-65 financial eligibility rules, and counts income based upon a "Disabled Adult Household." (130 CMR 506.002(A)(2)) A Disabled Adult Household consists of: **"(1) the individual; (2) the individual's spouse if living with them;** (3) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them; and (4) if any individual ... is pregnant, the number of expected children." (130 CMR 506.002(C) (emphasis added).) All countable income for the household is used in eligibility determinations and includes all "taxable

income ... after allowable deductions,” and specifically includes “social security 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.” (See 130 CMR 506.003(B).) The “allowable deductions” are described at 130 CMR 506.003(D) but are generally described as above the line deductions on a federal tax return. Countable monthly income is reduced by “[f]ive percentage points of the current federal poverty level (FPL) ... to determine eligibility of the individual under the coverage type with the highest income standard.” (130 CMR 506.007(A).)

The appellant did not dispute the amount of his or his wife’s income other than to object that MassHealth relied upon the gross income amount, before Medicare premiums were deducted. Nor did he identify any allowable deductions that could be deducted from this gross income amount. The federal poverty level for a household of two in 2024 is \$1,704 per month. Five percent of the federal poverty level is \$85.20. Therefore, the appellant’s income for eligibility purposes is \$6,026.70, after allowing the five percent disregard. This is equivalent to 353.7% of the federal poverty level for a household of two.

MassHealth determines an individual’s CommonHealth premium based upon their household’s federal poverty level equivalence.

(b) ... 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

(130 CMR 506.011(B)(2)(b).)

The appellant’s full CommonHealth premium is \$160 per month.¹ However, a supplemental premium formula provides that “members who have health insurance to which the MassHealth agency does not contribute” are only charged a percentage of the full premium. (130 CMR 506.011(B)(2)(c).) For individuals with household income between 200% and 400% of the federal poverty level, the member is only charged 65% of the full premium. This results in a reduced

¹ \$40 + (\$8 * 15) = \$160.

premium of \$104 per month because the appellant pays his own Medicare premiums.² MassHealth correctly included the appellant's wife's income in his household income, and MassHealth correctly calculated his CommonHealth premium. Therefore, this appeal is DENIED.

MassHealth allows a member "60 calendar days from the date of the eligibility notice and premium notification" to voluntarily withdraw from benefits, and if they do so "MassHealth premiums are waived." (130 CMR 506.011(C)(5).) Furthermore, it is the member's responsibility to notify MassHealth of their intention to withdraw, and the "member is responsible for the payment of all premiums up to and including the calendar month of withdrawal, unless the request for voluntary withdrawal is made in accordance with 130 CMR 506.011(C)(5)." (130 CMR 506.011(H).) The appellant did not withdraw from CommonHealth because he was pursuing this appeal to have his premiums reduced. Because he filed his fair hearing request prior to the deadline to withdraw from CommonHealth benefits, he shall be allowed an additional 30 days from the date of this decision to withdraw from CommonHealth without incurring premiums.

Order for MassHealth

Allow the appellant 30 days from the date of this decision to withdraw from CommonHealth without incurring a premium, if the appellant has not withdrawn already. If the appellant does not timely withdraw, he will owe all billed premiums.

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.

² MassHealth covers Medicare premiums for CommonHealth members with income below 135% of the federal poverty level. (130 CMR 519.012(D).)

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.

Christopher Jones
Hearing Officer
Board of Hearings

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