

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2413406
<b>Decision Date:</b>	11/21/2024	<b>Hearing Date:</b>	10/04/2024
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearances for MassHealth:**  
Monica Ramirez (Quincy MEC); 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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Community Eligibility – under 65/Premium Assistance
<b>Decision Date:</b>	11/21/2024	<b>Hearing Date:</b>	10/04/2024
<b>MassHealth's Reps.:</b>	Monica Ramirez/Roxana Noriega	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 August 17, 2024, MassHealth informed the appellant that her son's MassHealth coverage would end on August 31, 2024 because "[t]he person has been getting benefits based on MassHealth's continuous coverage rules [and] [o]ur records show that this person no longer meets these rules as described in Massachusetts regulation 130 CMR 505.000: MassHealth: Coverage Types." (See 130 CMR 505.000 and Exhibit (Ex.) 1). On the same date, MassHealth informed the appellant that it had stopped her Premium Assistance payments. (See 130 CMR 506.012 and Ex. 2). The appellant filed this appeal in a timely manner on August 27, 2024. (See 130 CMR 610.015(B) and Ex. 3). Termination of assistance is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth terminated appellant's son's MassHealth coverage and her Premium Assistance.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.004 and 506.012, in determining that the MassHealth coverage should end, and that Premium Assistance should be stopped.

## Summary of Evidence

The appellant, an eligibility worker from the Quincy MassHealth Enrollment Center (MEC), and a representative from the Premium Assistance Unit all attended the hearing by telephone.

The MassHealth representative testified first and stated the following. After the appellant submitted the annual review on August 17, 2024, MassHealth terminated the appellant's son's coverage because the household income exceeded the eligibility threshold for MassHealth CommonHealth. (Testimony; Ex. 1). The appellant's son is under the age of 18 years old, and a citizen. (Testimony; Ex. 4). The MassHealth representative stated that the appellant's son has received CommonHealth benefits under the MassHealth continuous coverage rules, but he no longer qualified because the household's income, at 434% of the Federal Poverty Level (FPL), surpassed the maximum allowable limit of 400%. (Testimony; Ex. 4). The MassHealth representative then stated that the termination was a result of the household's income exceeding the threshold for continued eligibility. (Testimony).

The MassHealth representative explained that the appellant's son had been found eligible for MassHealth CommonHealth, which is designed to support individuals with disabilities. (Testimony; Ex. 3). Disability Evaluation Services (DES) first determined the appellant was disabled and MassHealth approved the appellant for CommonHealth starting on June 19, 2023. (Testimony; Ex. 4). While MassHealth CommonHealth generally accommodates families with higher incomes, the MassHealth representative asserted that it still had an income limit, which she stated was 400% of the FPL. (Testimony). In this case, the MassHealth representative testified that the household's income exceeded the limit by \$34,234.48, leading to the termination of coverage. (Testimony).

When asked about the household size, the MassHealth representative stated that it consisted of six people: the appellant, her spouse, the appellant's son, and three other children. (Testimony). The household's total annual income was \$165,808, with the appellant earning \$65,010 and her spouse earning \$100,798, all of which came from employment. (Testimony). The appellant's son was the only individual in the household receiving MassHealth coverage. (Testimony).

The Premium Assistance representative testified next. The appellant began receiving Premium Assistance on April 23, 2024. (Testimony; Ex. 4). The Premium Assistance representative explained that the termination of the appellant's son's MassHealth coverage also led to the termination of the Premium Assistance he received. (Testimony). Since there was no one in the premium billing family who was eligible for MassHealth, he could no longer receive Premium Assistance.

(Testimony). Premium Assistance cannot cover the appellant's son's premiums unless the issue with his MassHealth status is resolved. (Testimony). Regarding the possibility of reinstating Premium Assistance, the Premium Assistance representative assured the appellant that if MassHealth coverage for her son was reinstated, Premium Assistance would be automatically reinstated as well. (Testimony). The appellant would not need to reapply; the payments would simply be restored, and any premiums that the appellant paid during the period of non-coverage would be reimbursed. (Testimony).

The appellant testified to the following. The appellant's son was diagnosed with autism in [REDACTED] and the appellant's submitted a disability supplement on his behalf in the same month. (Testimony). DES subsequently determined that the appellant's son was disabled, and he became eligible for CommonHealth in June 2023. (Testimony; Ex. 4). The appellant is a client of the Department of Developmental Services (DDS) and receives various specialized in-home services, which MassHealth covers. (Testimony). The appellant explained that the application for MassHealth CommonHealth was solely for her son, due to his disability, and not for her other children. (Testimony). She followed the guidance of DDS during the application process and did not apply for coverage for her other children. (Testimony).

The appellant also detailed the lengthy process of applying for Premium Assistance, which was approved. The appellant stated that she had been receiving it for only a few months before receiving the termination notice. (Testimony). She further explained that when she received the notice about the annual renewal, her DDS caseworker contacted her to ensure the renewal for her son was submitted so he would not lose his services. (Testimony). After submitting the renewal, she was shocked to receive a notification that her son's coverage was being terminated. (Testimony).

The appellant emphasized that the application for MassHealth was based on her son's disability, not income, and that her son's disability had been verified in the system. (Testimony). When she called to inquire about the termination, she spoke to two people at MassHealth who both acknowledged that an error had been made and the termination was incorrect. (Testimony). They told her that the only way to resolve the issue was through this hearing process. (Testimony).

## **Findings of Fact**

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

1. The appellant's son is under the age of 18 years old and a citizen. (Testimony; Ex. 4).
2. The appellant's son lives in a household of six consisting of the appellant, her spouse, and three other children. (Testimony).

3. DES determined that the appellant's son was disabled in 2023, and MassHealth determined he was eligible for CommonHealth beginning on June 19, 2023. (Testimony; Ex. 4).
4. The appellant's son is the only individual in the appellant's household who is receiving MassHealth coverage. (Testimony).
5. The appellant began receiving Premium Assistance on April 23, 2024. (Testimony; Ex. 4).
6. The appellant submitted the annual renewal to MassHealth on August 17, 2024, reporting the household size and income. (Testimony; Ex. 1).
7. The appellant's household income was reported as \$165,808. (Testimony).
8. MassHealth determined that this was the equivalent of 434% of the FPL for a household of six. (Testimony).
9. Through a notice dated August 17, 2024, MassHealth informed the appellant that her son's MassHealth coverage would end on August 31, 2024, because "[t]he person has been getting benefits based on MassHealth's continuous coverage rules [and] [o]ur records show that this person no longer meets these rules as described in Massachusetts regulation 130 CMR 505.000: MassHealth: Coverage Types." (Testimony; Ex. 1).
10. On the same date, MassHealth informed the appellant in writing that it had stopped her Premium Assistance payments. (Testimony; Ex. 2).

## Analysis and Conclusions of Law

The MassHealth regulations describing what constitutes adequate notice of an appealable MassHealth action are located at 130 CMR 610.026 and state the following:

(A) A notice concerning an intended appealable action must be...adequate in that it must be in writing and contain

- (1) a statement of the intended action;
- (2) the reasons for the intended action;
- (3) **a citation to the regulations supporting such action;**
- (4) an explanation of the right to request a fair hearing; and
- (5) the circumstances under which assistance is continued if a hearing is requested.

(B) Regardless of the provisions of 130 CMR 610.026(A), when a change in either federal or state law requires a change in assistance for a class or classes of members, a notice will be considered adequate if it includes a statement of the specific change in law requiring the action to reduce, suspend, or terminate assistance. (Emphasis

added).

The notice MassHealth issued on August 17, 2024, which terminated the appellant's son from CommonHealth was not an adequate notice as described above. The notice stated the appellant's son was terminated because "[t]he person has been getting benefits based on MassHealth's continuous coverage rules [and] [o]ur records show that this person no longer meets these rules as described in Massachusetts regulation 130 CMR 505.000: MassHealth: Coverage Types." 130 CMR 505.000 is not a regulation but rather a chapter of the Code of Massachusetts Regulations. It contains eight regulations consisting of an introduction and a description of the following seven MassHealth coverage types: 505.002: MassHealth Standard; 505.004: MassHealth CommonHealth; 505.005: MassHealth Family Assistance; 505.006: MassHealth Limited; 505.007: Medicare Savings Program (MSP, also called Buy-In); and 505.008: MassHealth CarePlus. (See 130 CMR 505.000).

Only 130 CMR 505.004: MassHealth CommonHealth appears to be directly relevant here and states the following in pertinent part:

(A) Overview.

(1) 130 CMR 505.004 contains the categorical requirements and financial standards for MassHealth CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.

(2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): MassHealth CommonHealth.

(B) Disabled Working Adults...

(C) Disabled Adults...

(D) Disabled Working Young Adults...

(E) Disabled Young Adults...

(F) Disabled 18-year-olds...

(G) Disabled Children Younger than 18 Years Old. Disabled children younger than 18 years old must meet the following requirements:

(1) be permanently and totally disabled, as defined in 130 CMR 501.001: Definition of Terms;

(2) be ineligible for MassHealth Standard; and

(3) be a citizen as described at 130 CMR 504.002: U.S. Citizens, lawfully present immigrant, or a nonqualified PRUCOL, as described in 130 CMR 504.003: Immigrants.

- (H) Determination of Disability. Disability is established by
- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
  - (2) a determination of disability by the SSA; or
  - (3) a determination of disability by the Disability Evaluation Services (DES).
- (I) MassHealth CommonHealth Premium...
- (J) Use of Potential Health Insurance Benefits...
- (K) Access to Employer-sponsored Health Insurance and Premium-assistance Investigations for Individuals Who Are Eligible for MassHealth CommonHealth....
- (L) Medicare Premium Payment...
- (M) Medical Coverage Date....
- (N) Extended CommonHealth Coverage. MassHealth CommonHealth members (described in 130 CMR 505.004(B)) who terminate their employment, continue to be eligible for MassHealth CommonHealth for up to three calendar months after termination of employment provided they continue to make timely payments of monthly premiums.
- (O) Postpartum Coverage...

The notice MassHealth issued on August 17, informing the appellant that her son's CommonHealth coverage was being terminated, did not meet the necessary requirements to be considered adequate. The notice failed to cite any specific regulation or regulations to support the stated reason for termination. Upon closer examination of the relevant regulations, there is no valid basis for terminating the son's eligibility.

The appellant's son is under 18 years old, has been determined disabled by the Department of Developmental Services (DES), and is a U.S. citizen. Additionally, he is not eligible for MassHealth Standard. As such, he meets the categorical requirements for MassHealth CommonHealth, which does not have an income limit for disabled children under 18. The only regulation related to "continuous coverage" applies to "Disabled Working Adults," not to disabled children under 18.

The MassHealth representative at hearing could not explain what was meant by "continuous coverage" in the MassHealth notice. Further the MassHealth representative testified that the income limit for CommonHealth is 400% of the federal poverty level. Such statement is incorrect.

The regulation at 130 CMR 506.011(D)(2)(a)(2.), (3.) states the following:

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.

<b>CommonHealth Required Member Formula Adults above 150% FPL and Children above 300% FPL</b>		
<b>Base Premium</b>	<b>Additional Premium Cost</b>	<b>Range of Premium Cost</b>
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.

The MassHealth representative testified that the appellant's annual gross family income of \$165,080.00 is 434% of the FPL. This is incorrect. Such amount would be 393% of the FPL and, after deducting the five percentage points allowed under MassHealth regulations to calculate countable income, the appellant's countable income would be 388% FPL. The income and premium assistance calculations were not the subject of this appeal and MassHealth did not recalculate these amounts, as it should have, based on the appellant's annual review submission. Instead MassHealth erroneously terminated the appellant's son's coverage.

MassHealth shall reinstate the appellant's son's CommonHealth coverage and Premium Assistance payments retroactive to the termination date of August 31, 2024, with whatever premium assistance amount was in place at that time. MassHealth should recalculate the required member contribution and premium assistance amount based on information submitted with the August 2024 annual review. If MassHealth makes any changes to the member contribution amount and premium assistance amount, it must send notice of such changes to the appellant. The appellant



will have appeal rights on such notice.

For the above reasons, the appeal is APPROVED.

## **Order for MassHealth**

Rescind aid pending and reinstate the appellant's son's CommonHealth and Premium Assistance retroactive to August 31, 2024 (i.e. there should be no gap in the son's coverage).

## **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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Scott Bernard  
Hearing Officer  
Board of Hearings

Cc: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

Premium Assistance