

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2413757
Decision Date:	1/27/2025	Hearing Date:	11/06/2024
Hearing Officer:	Casey Groff	Record Closed:	11/27/2024

Appearance for Appellant:



Appearance for MassHealth:

Carmen Rivera, Quincy MassHealth
Enrollment Center;
Carmen Fabery, Business Analyst, 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; Income; Premium Billing
Decision Date:	1/27/2025	Hearing Date:	11/06/2024
MassHealth's Rep.:	Carmen Rivera; Carmen Fabery	Appellant's Rep.:	<i>Pro se</i> ; Spouse
Hearing Location:	Board of Hearings, Quincy (In-Person)	Aid Pending:	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 8/28/24, MassHealth informed Appellant that his CommonHealth benefit would end on 9/11/24 due to having past due premium amounts on his account. *See* Exh 1 and 130 CMR 506.011. Appellant filed a timely appeal with the Board of Hearings (BOH) on 9/6/24. ¹ *See* Exh. 2. Denial and/or termination of assistance is valid grounds for appeal. *See* 130 CMR 610.032. On 9/10/24, BOH notified the parties that a hearing would be scheduled on 10/10/24. *See* Exh. 4. On 10/8/24, Appellant requested the hearing be rescheduled due to medical reasons. *See* Exh. 6. BOH approved the request and rescheduled the matter for 11/6/24. *See* Exh. 7. After a hearing was conducted on that date, the record remained open through 11/27/24 for the parties to submit additional evidence. *See* Exh. 9-11.

Action Taken by MassHealth

MassHealth determined that Appellant did not pay past due premiums and, on this basis, sought to terminate his CommonHealth benefit.

¹ By filing this appeal, protection was placed on Appellant's case preventing his benefit from ending and which remains pending through the duration of this appeal.

Issue

The appeal issue is whether MassHealth was correct in seeking to terminate Appellant's CommonHealth benefit on the basis that he failed to pay past-due premiums.

Summary of Evidence

At hearing, MassHealth was represented by an eligibility and benefits social worker and a billing specialist from MassHealth's Premium Billing (PB) unit. Appellant appeared at the hearing in-person with his spouse.

The MassHealth eligibility representative testified that Appellant is between the ages of 19-64 and is in a household size of two (2), comprised of himself and his wife. Appellant has a verified disability. On 3/6/24, after receiving an application for benefits, MassHealth determined that Appellant was eligible for MassHealth CommonHealth effective 2/25/24 with a monthly premium of \$339.00 starting in April 2024. See Exh. 8, p. 13-14. MassHealth explained that premiums for CommonHealth are based on household income. At the time of the 3/6/24 notice, Appellant was receiving gross social security income of \$2,031 per month and his wife was receiving bi-weekly gross income of \$4,200, which equates to \$9,099.30 per month. The combined household income at this time was \$11,132.40, placing Appellant at 648.57% of the federal poverty level (FPL). *Id.* at 15-16. The MassHealth representative testified that Appellant is insured under his wife's employer sponsored health insurance (ESI) plan and CommonHealth is his secondary benefit. The MassHealth representative explained that because Appellant's income exceeded 133% of the FPL (which for a household size of two was \$2,266 per month), he was ineligible for MassHealth Standard. However, due to his verified disability, Appellant remained eligible for CommonHealth subject to a monthly premium.

The MassHealth representative explained that once approved in March 2024, a new account for Appellant was opened in MassHealth's "HIX" system.² Prior to this, Appellant's CommonHealth benefit had been managed in MA-21. Because the MA-21 account never closed, Appellant had two open MassHealth accounts at the same time. On 5/23/24, an auto-generated notice from MA-21 was sent to Appellant, informing him that he had a CommonHealth premium of \$242 starting June 2024. *Id.* at 13.

Subsequently, on 7/3/24, MassHealth ran a periodic data match through its HIX system, which showed that Appellant's current combined household income placed him at 651.09% of the FPL. *Id.* at 11. As a result, MassHealth informed Appellant, through a notice dated 7/3/24, that his

² This was because the application submitted was an "ACA" application, as opposed to a "SACA" application. MassHealth indicated that Appellant's current benefit is appropriately being managed in the HIX system.

monthly CommonHealth premium would be adjusted to \$348 starting in August of 2024. *See* Exh. 8, p. 10-11. On 8/28/24, MassHealth notified Appellant that his CommonHealth benefit would be ending on 9/11/24 due to non-payment of past due premiums. *See* Exh. 8, p. 9. The MassHealth eligibility representative confirmed that because Appellant filed the appeal, his benefit did not end on 9/11/24, and that it would remain protected throughout the duration of this appeal.³

Next, the MassHealth PB representative testified that, in accordance with HIX notices dated 3/6/24 and 7/3/24, MassHealth billed Appellant \$339.00 for the months of June and July 2024 and billed \$348 for the August premium. The PB representative testified that it never received any payment on the three charges. When 60 days had elapsed from the first outstanding premium charge, MassHealth issued the 8/28/24 termination notice. At the time the termination notice was issued, Appellant had a total balance of \$1,026 for the three months of unpaid premiums on his account. As of the hearing date, Appellant had accrued an additional \$321 for his October 2024 premium, resulting in a total outstanding balance of \$1,347.00 on his HIX account.

The PB representative testified that because Appellant's old MA-21 account remained open, Appellant was charged the assessed premium of \$242 for September 2024. Despite the 5/23/24 letter, September was the only month that a premium was charged from the MA-21 account. Because Appellant was not charged a premium on his HIX account for September, there was no month in which Appellant received a duplicative premium charge. However, because MassHealth placed a note in Appellant's account, reflecting that the charge from Appellant's MA-21 account was error, PB would waive the September 2024 premium charge, leaving a \$0 balance on Appellant's MA-21 account. It was also noted that because the aid pending protection had been placed on both accounts, MassHealth was unable to close Appellant's MA-21 account until the appeal concluded.

Appellant and his wife appeared in-person for the hearing, and, together, disputed the premium charges and the 8/28/24 termination notice. For background, Appellant explained that he has had CommonHealth for years but never owed a premium until now. In February of this year, Appellant came into an enrollment center to complete a renewal and change of address. When filling out the paperwork, a representative from MassHealth assured him that no changes would be made to his existing benefit. However, after he completed the renewal, he was "whacked with bills." In addition, Appellant testified that he had previously received premium assistance (PA) checks from MassHealth to assist with the cost of his primary ESI plan. MassHealth never told him why it stopped sending him the PA payments. Appellant wished to resume this benefit.

³ The MassHealth representative reviewed notes from a 9/6/24 communication between Appellant and another MassHealth representative in which Appellant questioned the notice and was directed to file an appeal. During this meeting, Appellant provided updated paystubs showing that his wife's bi-weekly income was now \$4,000, bringing his FPL to 623.12%. This prompted a 9/6/24 notice to issue, informing Appellant that his CommonHealth premium would be \$321.00 starting October 2024. *See* Exh. 8, p. 6-8.

Appellant's wife did not dispute the income figures on file. She testified that her bi-weekly income ranges between \$4,000 and \$4,200, with it currently being on the lower end. Appellant's social security income was also correct. Appellant's wife testified that without the PA payments – which she received for years – she has to bear the significant costs to maintain her ESI, and now, the additional CommonHealth premiums. She testified that Appellant requires a secondary insurance due to his medical issues. She testified that this past spring, they applied for hardship waiver but never heard back.

In response to Appellant's testimony, the MassHealth representative confirmed that Appellant received PA benefits between 2017 and 2023. MassHealth was unable to locate a notice through which MassHealth would have informed Appellant or his wife that their PA benefit was ending; however, the representative was able to confirm that the last PA check issued to Appellant was on 4/4/23. In addition, the MassHealth representative testified that the day prior to hearing, she had a conference call with the Appellant and a representative from the PA department. During the call, PA confirmed that Appellant's PA benefit ended when he became enrolled in Medicare, as this renders an individual ineligible for PA benefits.⁴ The PA representative confirmed that the termination of the PA benefit was appropriate at that time, however, she strongly encouraged Appellant to reapply for PA benefits for reconsideration under current review protocols.

Finally, it was noted that when Appellant appealed the 8/28/24 termination notice to the Board of Hearings (BOH), he included in the filing a one-page application for "waiver of hardship" with a copy of his wife's employee earning statement. *See* Exhs. 2 and 3. On review, both MassHealth representatives confirmed that neither department received a copy of the 9/6/24 waiver application; nor had they received a hardship waiver application in the spring of 2024 as Appellant asserted. The PB representative testified that even if it had received the 9/6/24 application, it would have been deemed "incomplete" absent supporting documentation of hardship.⁵

To honor Appellant's 9/6/24 hardship waiver application filing date, the record was left open for Appellant to submit additional documentation of hardship and for MassHealth PB to respond.⁶ *See* Exh. 9. Following the hearing, Appellant submitted documentation of hardship, including their out-of-pocket medical expenses. *See* Exh. 10, Attms. (A)-(D). On review, the PB representative testified that MassHealth denied Appellant's hardship application as the supporting documentation did not demonstrate that the medical expenses amounted to 7.5% of the gross annual household income. *See* Exh. 11. MassHealth confirmed that a denial notice had been sent

⁴ In response to this comment, Appellant and his wife testified that Social Security automatically enrolled Appellant in Medicare "at the 2-year mark," but they then cancelled Part B because they already had the ESI and secondary MassHealth insurance. Appellant remains on Medicare Part A, which is necessary for him to remain eligible for social security income.

⁵ The PB representative noted that the employee earning statement was not considered supporting documentation of hardship.

⁶ It was discussed that if approved, any potential waiver of Appellant's outstanding balance would be considered for purposes of rendering the decision on the 8/28/24 termination notice.

to Appellant and could be separately appealed. *Id.*

Findings of Fact

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

1. Appellant has a verified disability, is between the ages of 19-64, and is in a household size of two.
2. On 3/6/24, MassHealth determined that Appellant was eligible for CommonHealth effective 2/25/24 with a monthly premium of \$339.00 starting in April 2024.
3. The CommonHealth benefit that started on 2/25/24 was opened through MassHealth's HIX system, whereas Appellant's previous benefit was managed through MA-21.
4. The assessed premium of \$339.00 was based on Appellant's verified combined household income of \$11,132.40 per month (comprised of his social security income of \$2,031 and his wife's gross earned monthly income of \$9,099.30) placing Appellant at 648.57% of the FPL.
5. Appellant is insured under his wife's ESI plan and CommonHealth is his secondary benefit.
6. On 7/3/24, after a periodic data match showed Appellant's household income placed him at 651.09% of the FPL, MassHealth informed Appellant that his CommonHealth premium would be adjusted to \$348 per month starting August of 2024.
7. In accordance with HIX notices dated 3/6/24 and 7/3/24, MassHealth billed Appellant \$339.00 for the months of June and July 2024 and \$348 for August 2024.
8. On 8/28/24, MassHealth notified Appellant that his CommonHealth benefit would be ending on 9/11/24 due to non-payment of past due premiums.
9. As of the hearing date, Appellant had not made any payments on the outstanding premiums.
10. Because Appellant's MA-21 account should have closed when his case transferred to HIX, the September 2024 premium charge of \$242 that generated from the MA-21 account was erroneous.
11. Appellant received a premium assistance benefit from 2017 through 2023, with the last

PA check issued on 4/4/23; however, this benefit ended due to Appellant's enrollment with, or ability to enroll in, Medicare.

12. Through a record open period, Appellant submitted documentation in support of the hardship waiver that he filed on 9/6/24.
13. On review, MassHealth PB denied the application for a hardship waiver based on a finding that the out-of-pocket medical expenses did not amount to 7.5% of the gross annual household income (and no other bases for hardship waiver were alleged).

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly sought to terminate Appellant's CommonHealth benefit for failure to pay past-due premiums.

Pursuant to 130 CMR 506.011, MassHealth has authority to impose premiums for members receiving Standard, CommonHealth, or Family Assistance coverage who have a household income greater than 150% of the federal poverty level (FPL). These premiums are calculated "based on a member's household modified adjusted gross income (MAGI), their household size, and the premium billing family group (PBFG) rules as described in 130 CMR 506.011(A)" as well as the annual FPL income figures published by the Department of Health and Human Services. See 130 CMR 506.011. Members who are subject to a premium "are responsible for monthly premium payments beginning with the calendar month following the date of the MassHealth agency's eligibility determination." See 130 CMR 506.011(C)(1).⁷ Pursuant to 130 CMR 506.011(D)(1), MassHealth may terminate a member's benefit based on delinquent payment of premium, as follows:

If the MassHealth agency has billed a member for a premium payment, ***and the member does not pay the entire amount billed within 60 days of the date on the bill, the member's eligibility for benefits is terminated.*** The member will be sent a notice of termination before the date of termination. The member's eligibility will not be terminated if, before the date of termination, the member

- (a) pays all delinquent amounts that have been billed;
- (b) establishes a payment plan and agrees to pay the current premium being assessed and the payment-plan-arrangement amount;
- (c) is eligible for a nonpremium coverage type;

⁷ A member may have their premium waived if they contact MassHealth "within 60 calendar days from the date of the eligibility and premium notice" to request a voluntary withdrawal of benefits. See 130 CMR 506.011(C)(4)). While Appellant testified that he and his spouse contacted MassHealth on several occasions to inquire as to the basis for the premium charges, as well as termination of their PA benefit, there was no evidence to indicate that Appellant sought a voluntary withdrawal of his CommonHealth benefit.

(d) is eligible for a MassHealth coverage type that requires a premium payment and the delinquent balance is from a CMSP benefit; or
(e) requests a waiver of past-due premiums as described in 130 CMR 506.011(G).

The evidence shows that on 3/6/24, MassHealth determined Appellant was eligible for CommonHealth with a monthly premium obligation of \$339 starting April 2024. See Exh. 8. The premium was calculated based on verified information, showing that Appellant resided in a household size of two with a combined gross household income of \$11,132.40 per month, which placed him at 648.57% of the FPL. Appellant was billed \$339 for both the June and July 2024 premiums, and \$348 for the August premium after his FPL was adjusted to 654% through a periodic data match. At hearing, Appellant did not dispute the income figures which served as the basis for the premium calculations.⁸ There is also no dispute that, as of the hearing date, the June through August 2024 premiums remained outstanding and had not been paid. In accordance with 130 CMR 506.011(D)(1), above, once the June premium became 60 days overdue, MassHealth appropriately notified Appellant, through the 8/28/24 notice, that his CommonHealth benefit would end on 9/11/24.

Under the governing regulation, cited above, MassHealth sets forth five circumstances under which it will *not* terminate a member's benefit when their account is delinquent. By filing this appeal, it is the Appellant's burden "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228 (2007). Based on the evidence presented, Appellant has not demonstrated that he fell into any of the enumerated exceptions. First, subsections (a) and (b) do not apply as Appellant did not allege that he had paid, or agreed to pay through a payment plan, the outstanding premium balance. Rather, Appellant's central contention was that he should not have been obligated to pay a premium amount. According to Appellant, despite having CommonHealth for years, he never before owed a premium, and in fact, had received premium assistance (PA) payments to help pay for his primary ESI plan.⁹ While a PA benefit may reduce or offset a premium charge, there was no evidence to indicate that Appellant's PA benefit had been erroneously terminated.¹⁰ As a

⁸ There is no evidence to indicate that the premium amounts that were charged, pursuant to notices dated 3/6/24 and 7/6/24, were incorrect. MassHealth's formula for calculating premiums is described in 130 CMR 505.004. Adults with household income between 600%-800% of the FPL who have CommonHealth as a supplemental benefit are required to pay 75% of the full premium amount. The full premium for individuals between 640-649% of the FPL and 650-659% of the FPL is, respectively, \$452 per month and \$464 per month. See 130 CMR 505.004(B). MassHealth appropriately assessed Appellant's premiums at 75% of the full premium amounts at \$339 and \$348, respectively.

⁹ Under MassHealth's Premium Assistance program, qualifying members will receive financial assistance from MassHealth to help cover the cost of the premium for their primary insurance, such as an employer-sponsored insurance.

¹⁰ At hearing, MassHealth testified that during a pre-hearing discussion with Appellant and a PA representative, the PA representative confirmed that Appellant's PA benefit appropriately ended based on his enrollment, or ability to enroll, in Medicare. To the extent Appellant seeks to dispute this issue, it may not be addressed in this decision as it is beyond

CommonHealth member with household income over 150% of the FPL, Appellant is subject to a premium. Therefore, subsection (c) above does not apply. Likewise, because the delinquent balance is based on overdue CommonHealth premiums (as opposed to CMSP premiums), subsection (d), above, does not apply.

As the final exception in subsection (e) states, MassHealth will not terminate a benefit due to delinquent premium charges, if the member requests a waiver of past-due premiums before the benefit has ended. On 9/6/24, when filing the appeal on the 8/28/24 notice, Appellant included a signed premium hardship waiver application. To honor the 9/6/24 filing date (which was before the 9/11/24 termination date), the record was left open for Appellant to submit verification of hardship. After receiving documentation from the Appellant, MassHealth PB responded that Appellant did not meet the criteria for financial hardship to qualify for a waiver, and accordingly, his application had been denied.¹¹ Given this outcome, Appellant did not demonstrate any basis under which MassHealth should not have terminated his benefit for failing to pay outstanding premiums. Given that there was no error in issuing the 8/28/24 notice, this appeal is DENIED.

Order for MassHealth

Remove aid pending protection from both Appellant's HIX and MA-21 accounts. If not already done, Premium Billing is to waive September 2024 premium charge of \$242 from Appellant's MA-21 account.¹² Additionally, once September 2024 premium has been waived, MassHealth may close MA-21 account if it remains duplicative of Appellant's HIX account.

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

the scope of appeal. Under MassHealth Fair Hearing Rules, an aggrieved party must file an appeal with BOH within 60 days of receiving the written notice in dispute. See 130 CMR 610.015(B)(1). Alternatively, when the dispute involves MassHealth's failure to send written notice of the action, as Appellant alleged here, the time limitation on the right of appeal extends 120 days from the date of the action. See 130 CMR 610.015(B)(2)(c). The evidence indicates that Appellant's last PA payment was issued in April 2023, over a year before the fair hearing request was filed on 9/6/24. Due to timeliness, Appellant may not contest the PA termination in this appeal.

¹¹ MassHealth issued a notice to Appellant informing him that it denied his application for hardship waiver. Any dispute with his determination would have to be addressed through a separate appeal of that notice.

¹² As discussed at hearing, MassHealth confirmed that Appellant's MA-21 was not closed when new HIX account opened in March of 2024. As a result, Appellant was charged a premium of \$262 from his MA-21 account for September 2024; MassHealth confirmed that due to erroneous charge, the amount may be waived. It is noted that this does not impact the appeal outcome as all premium charges from Appellant's HIX account remained outstanding and justified the basis of the 8/28/24 termination notice.

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.

Casey Groff
Hearing Officer
Board of Hearings

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