

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2414415
<b>Decision Date:</b>	11/4/2024	<b>Hearing Date:</b>	10/25/2024
<b>Hearing Officer:</b>	Sharon Dehmand		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Elizabeth Nickoson, Taunton MEC



*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>	DENIED	<b>Issue:</b>	Medicare Savings Programs (MSPs)
<b>Decision Date:</b>	11/4/2024	<b>Hearing Date:</b>	10/25/2024
<b>MassHealth's Rep.:</b>	Elizabeth Nickoson	<b>Appellant's Rep.:</b>	
<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 September 13, 2024, MassHealth notified the appellant that he is no longer eligible for a Medicare Savings Program (MSP) because his countable income was over the limit allowed by MassHealth. See 130 CMR 519.012(D) and Exhibit 1. The appellant filed this appeal in a timely manner on September 19, 2024. See 130 CMR 610.015(B) and Exhibit 2. Any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

### Action Taken by MassHealth

MassHealth notified the appellant that he is no longer eligible for a Medicare Savings Program (MSP) and that MassHealth will no longer pay for his Medicare premium starting October 1, 2024.

### Issue

Whether MassHealth was correct in determining that the appellant was eligible for MassHealth CommonHealth but not for the payment of his Medicare premium under MSP in pursuant to 130 CMR 519.012(D).

## Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center. The appellant was represented by his mother who participated as his appeal representative and verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is under the age of 65 and lives in a household of one. He is a tax filer. MassHealth has determined that the appellant is disabled. The MassHealth representative stated that the appellant's gross monthly income totals \$2,132.97, consisting of \$1,743.00 from Social Security benefits and \$389.97 from employment earnings. This figure equates to 164.96% of the federal poverty level (FPL) for a household of one, which exceeds the limit for the MSP. The income limit to be eligible for CommonHealth with MSP is 133% of the FPL, or \$1,670.00 per month for a household of one. She stated that MassHealth will no longer pay the appellant's Medicare premium starting October 1, 2024. The appellant is eligible for MassHealth CommonHealth as a working disabled adult with a monthly premium of \$12.00.

The appellant's mother testified that the appellant's rent has increased. She expressed concern that, with the deduction of \$174.00 for his Medicare premium from his Social Security benefits and an additional \$12.00 payment for CommonHealth, he may be unable to afford his living expenses. She also sought advice regarding his available options.

In response, the MassHealth representative stated that the appellant can apply for a hardship waiver, and that he can also call MassHealth's customer service line in order to discuss his options further. The appellant's mother stated that she appreciated the MassHealth representative's explanation and that she will follow up with MassHealth's customer service on his behalf.

## Findings of Fact

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

1. The appellant is under the age of 65 and lives in a household of one. (Testimony and Exhibit 4).
2. MassHealth has determined that the appellant is disabled. (Testimony).
3. The appellant's gross monthly income totals \$2,132.97, consisting of \$1,743.00 from Social Security benefits and \$389.97 from employment earnings. (Testimony).
4. According to Federal Poverty Guidelines, 133% of the FPL is \$1,670.00 per month for a household of one. (Testimony and Federal Poverty Guidelines).

5. The appellant is eligible for MassHealth CommonHealth as a working disabled adult with a monthly premium of \$12.00. (Testimony).
6. On September 13, 2024, MassHealth notified the appellant that he is no longer eligible for an MSP because his countable income was over the limit allowed by MassHealth. (Testimony and Exhibit 1).
7. MassHealth will no longer pay the appellant's Medicare premium starting October 1, 2024. (Exhibit 1).
8. The appellant filed this appeal in a timely manner on September 19, 2024. (Exhibit 2).

## Analysis and Conclusions of Law

MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits. See 130 CMR 501.003(A). MassHealth offers several coverage types. See 130 CMR 501.003(B). The coverage type for which an individual is eligible is based on their income and circumstances. Id.

Generally, MassHealth regulations at 130 CMR 505.000 explains the categorical requirements **and** financial standards that must be met to qualify for a particular MassHealth coverage type. To establish eligibility for MassHealth benefits, applicants must meet both the categorical requirements **and** financial standards.

These coverage types set forth at 130 CMR 505.001(A) are as follows:

- (1) MassHealth Standard - for people who are pregnant, children, parents and caretaker relatives, young adults<sup>1</sup>, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus - for adults [REDACTED] years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance - for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) MassHealth Limited - for certain lawfully present immigrants as described in 130 CMR

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<sup>1</sup> "[Y]oung adults" are defined as those aged [REDACTED] See 130 CMR 501.001.

504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: Immigrants; and  
(6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-In and Buy-In) for certain Medicare beneficiaries.

As a disabled adult, the appellant meets the categorical requirements for both MassHealth Standard and MassHealth CommonHealth. Id. However, both programs also have financial standards. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income based on household size.

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways. One, through the "Modified Adjusted Gross Income (MAGI) composition rules," and two, through the MassHealth "Disabled Adult Household composition rules." Id.

Here, there is no dispute that the appellant is a disabled adult. Therefore, his eligibility is determined through the MassHealth "Disabled Adult Household composition rules" which state that the household consists of:

- (1) the individual;
- (2) the individual's spouse if living with him or her;
- (3) the individual's natural, adopted, and stepchildren younger than ■ years old if living with him or her; and
- (4) if any individual described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children.

See 130 CMR 506.002(C).

Based on testimony and evidence presented at the hearing, the appellant is the tax filer in a household size of one. Id.

To calculate financial eligibility for an individual, MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income as described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). See 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income, and deductions are as follows:

(A) Earned Income.

- (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.

(2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.

(3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income may include, but is 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.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (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 for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);

- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and
- (12) 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.

To be eligible for MassHealth Standard as a disabled adult, the appellant's monthly income would have to be less than or equal to 133% of the FPL. See 130 CMR 505.002(E)(1)(b). The undisputed evidence in the record demonstrates that the appellant's gross monthly income totals \$2,132.97, consisting of \$1,743.00 from Social Security benefits and \$389.97 from employment earnings.

The appellant's mother argued that the appellant's rent increase has made it harder for him to afford essential expenses. Since neither the appellant's rent nor customary life expenses fall within the allowable deductions enumerated in 130 CMR 506.003 (D), they cannot be considered as deductions. Thus, MassHealth correctly determined that the appellant's MAGI income is too high to be eligible for MassHealth Standard.

The eligibility requirements for MassHealth CommonHealth are set forth in pertinent part:

(B) Disabled Working Adults. Disabled working adults must meet the following requirements:

- (1) be [REDACTED] years of age (For those 65 years of age and older, see 130 CMR 519.012: MassHealth CommonHealth);
- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;
- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms;
- (4) be a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens;
- (5) be ineligible for MassHealth Standard; and
- (6) comply with 130 CMR 505.004(J).

(C) Disabled Adults. Disabled adults must meet the following requirements:

- (1) be [REDACTED] years of age;
- (2) be permanently and totally disabled, as defined in 130 CMR 501.001: *Definition of Terms*;
- (3) be ineligible for MassHealth Standard;
- (4) be a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens*;
- (5) (a) meet a one-time-only deductible in accordance with 130 CMR 506.009: *The One-Time Deductible*; or

- (b) have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 200% of the federal poverty level (FPL) and provide verification that they are HIV positive; and
- (6) comply with 130 CMR 505.004(J).

...

(I) MassHealth CommonHealth Premium. Disabled adults, disabled working adults, disabled young adults, and disabled children who meet the requirements of 130 CMR 505.004 may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). No premium is assessed during a deductible period.

(J) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits, in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than he or she would pay without access to health insurance, or if purchased by the MassHealth agency in accordance with 130 CMR 505.002(O) and 506.012: *Premium Assistance Payments*. Members must access those other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

See 130 CMR 505.004.

Here, Appellant is categorically eligible for CommonHealth as a disabled working adult pursuant to 130 CMR 505.004(B). In accordance with 130 CMR 505.004(I), adults eligible for CommonHealth may be assessed a premium pursuant to the premium schedule provided in 130 CMR 506.011(B)(2).

<b>CommonHealth Full Premium Formula Children between 150% and 300%</b>	
<b><i>% of Federal Poverty Level (FPL)</i></b>	<b>Monthly Premium Cost</b>
Above 150% to 200%	\$12 per child (\$36 PBFG maximum)
Above 200% to 250%	\$20 per child (\$60 PBFG maximum)
Above 250% to 300%	\$28 per child (\$84 PBFG maximum)

In this case, the appellant is not contesting the calculation of his CommonHealth premium. Nevertheless, based on the aforementioned, I find that MassHealth correctly calculated a \$12.00 monthly premium for the appellant's CommonHealth coverage.

Lastly, MassHealth will also pay the cost of the Medicare Part B premium for the CommonHealth

recipients who have a MAGI income that is less than or equal to 135% of the FPL in accordance with the regulations for the MSP.<sup>2</sup> See 130 CMR 505.004(L); Eligibility Operations Memo (EOM 23-04).

The appellant is contesting the loss of his MSP benefit. As stated supra, the appellant's MAGI income totals \$2,132.97 per month, consisting of \$1,743.00 per month from Social Security benefits and \$389.97 per month from employment earnings. The appellant's MAGI income equates to 164.96% of the FPL for a household of one. Since this figure exceeds 135% of the FPL, the appellant is not eligible for an MSP as part of his Commonwealth coverage at this time. The appellant did not present any evidence to prove that MassHealth's decision was incorrect. See Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983)("[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings").

For the foregoing reasons 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.

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Sharon Dehmand, Esq.  
Hearing Officer  
Board of Hearings

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<sup>2</sup> 130 CMR 519.010 (MSP-Qualified Medicare Beneficiaries (QMB)); 130 CMR 519.011(A) (MSP - Specified Low Income Medicare Beneficiaries (SLIMB)); and 130 CMR 519.011(B)(Qualifying Individuals (QI)).

CC:

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