

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2416035
Decision Date:	01/07/2025	Hearing Date:	11/26/2024
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Jenna Bellavista, Springfield MEC
Roxana Noriega, Premium Assistance



*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, under 65, premium assistance
Decision Date:	01/07/2025	Hearing Date:	11/26/2024
MassHealth's Reps.:	Jenna Bellavista, Roxana Noriega	Appellant's Rep.:	Pro se
Hearing Location:	Springfield (remote)	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

By notice dated October 6, 2024, MassHealth notified Appellant that his benefit would terminate on October 20, 2024 because Appellant had not enrolled in the required employer-sponsored health insurance. Exhibit 1. 130 CMR 503.007(A). Appellant filed this appeal in a timely manner on October 17, 2024 and was eligible to keep the previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated Appellant's benefit because Appellant had not enrolled in employer-sponsored health insurance.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant was required to enroll in employer-sponsored health insurance.

Summary of Evidence

MassHealth was represented at remote hearing by an eligibility representative and a Premium Assistance (PA) representative. Appellant appeared by phone. A summary follows.

On June 28, 2024, MassHealth received Appellant's renewal application. Based on updated information, Appellant was working and his income increased from 0% to 138% of the federal poverty level (FPL). Appellant's household size changed from 3 to 2, including a child who was not applying for MassHealth. Based on this information, MassHealth approved Appellant for MassHealth CommonHealth effective June 18, 2024. Exhibit 4. This benefit included a \$35 monthly premium calculated based on the disability household size of 1 and 190.07% of the FPL. *Id.*

On August 2, 2024, MassHealth notified Appellant that he must enroll in employer-sponsored health insurance (ESI) by October 1, 2024 or benefits may end. MassHealth did not receive notification that Appellant had enrolled in ESI by the deadline. On October 6, 2024, MassHealth notified Appellant that his benefit would terminate on October 20, 2024 because Appellant had not enrolled in ESI. Exhibit 1. Appellant is currently active on CommonHealth pending the outcome of the appeal. To date, MassHealth has not received verification that Appellant has enrolled in ESI.

The Premium Assistance representative testified that anyone eligible for MassHealth is required to enroll in ESI. Appellant's employer offered an individual plan for which MassHealth premium assistance would pay 100% of the monthly premium (\$295.44) less the member responsibility. Appellant would be responsible for the CommonHealth premium of \$35 and the CommonHealth coverage would be secondary to the ESI, covering what the ESI did not cover. The Premium Assistance representative testified that Premium Assistance pays one month in advance, to avoid members having to miss a payment or fall behind.

Appellant testified that he made multiple calls to MassHealth and never got a straight answer. Appellant alleged that MassHealth cancelled his insurance because they could not read the form submitted by his employer. Appellant said that he was fine with enrolling in the work insurance if he got paid in advance. Appellant filed the present appeal because he would not be able to afford having the ESI premium taken out of his paycheck first, because then his take home pay would be too low to afford to live and pay rent. Appellant testified that his income is \$580 a week but this is a false amount, as he only gets approximately \$370 take home pay. The court takes \$235 out of each paycheck for child support, and he has no choice about it. Appellant argued that MassHealth and Premium Assistance systems are flawed, as he gets letters from both that seem to contradict each other. Appellant testified that he will enroll in his ESI next week.

When asked about the CommonHealth premium, the Premium Assistance representative testified that the \$35 calculation was based on being billed at 85%, which would end once premium assistance began. Appellant asked for the correct number, which the Premium Assistance representative had difficulty calculating. Appellant became frustrated when the MassHealth representative and Premium Assistance representative were not able to give a straight answer on the \$35 monthly premium and testified that he did not appreciate it when representatives have told Appellant that he did not understand something when he could not get a straight answer. Appellant asserted that the \$580 income figure was not a true number and would not agree to it. Appellant asked to end the call.

Findings of Fact

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

1. On June 28, 2024, MassHealth received Appellant's renewal application.
2. On August 2, 2024, MassHealth approved Appellant for MassHealth CommonHealth effective June 18, 2024. This benefit included a \$35 monthly premium calculated based on the disability household size of 1 and 190.07% of the FPL. Exhibit 4.
3. On October 6, 2024, MassHealth notified Appellant that his benefit would terminate on October 20, 2024 because Appellant had not enrolled in ESI. Exhibit 1.
4. As of the hearing date, MassHealth had not received verification that Appellant has enrolled in ESI.

Analysis and Conclusions of Law

Appellant raised multiple concerns at hearing as reasons for his appeal. Appellant objected to MassHealth's determination of his countable income. Appellant also testified that he was not well informed of when he would receive a premium assistance payment and what, if any, amount he would owe for his CommonHealth premium.

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) MassHealth Standard – for people who are pregnant, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV

positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health (DMH) 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 21 through 64 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, MassHealth CommonHealth, or MassHealth CarePlus;

(5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and

(6) MassHealth Medicare Savings Programs – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes 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) and subtracts deductions described in 130 CMR 506.003(D). 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.

In addition to countable income, financial eligibility includes a determination of household size. 130 CMR 506.001(A). MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways: the MassHealth Modified Adjusted Gross Income (MAGI) Household Composition and MassHealth Disabled Adult Household. 130

CMR 506.002(A). The MassHealth Disabled Adult Household composition rules determine member eligibility for:

- (a) MassHealth Standard, as described in 130 CMR 505.002(E): *Disabled Adults*;
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(B) through (E);

130 CMR 506.002(A)(2)(a) and (b). The MassHealth Adult Disabled 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 described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children.

To be eligible for MassHealth Standard as either a parent of children younger than 19 (with a MAGI household composition) or a disabled adult, Appellant's monthly income would have to be less than or equal to 133% of the FPL. 130 CMR 505.002(C)(1)(a) and 505.002(E)(1)(b). MassHealth, using a MAGI household composition of 2 people, determined that Appellant's income is 138% of the FPL. Using the disabled adult household composition of 1 person (assuming Appellant's child who is Appellant's tax dependent does not live with him), MassHealth calculated that Appellant's income is 190.07% of the FPL. This is consistent with Appellant's testimony that his weekly pay is approximately \$580 before deductions. Appellant's argument that MassHealth used a false number is not supported, as Appellant did not identify any allowable deductions identified in 130 CMR 506.003(C). Accordingly, Appellant does not qualify for MassHealth Standard.

The eligibility requirements for MassHealth CommonHealth are set forth in pertinent part (emphasis added):

(D) Disabled Working Young Adults. Disabled working young adults are eligible for MassHealth CommonHealth if they meet the following requirements:

- (1) be permanently and totally disabled (except for engagement in substantial gainful activity), as defined in 130 CMR 501.001: *Definition of Terms*;
- (2) be ineligible for MassHealth Standard;
- (3) (a) be a citizen as described at 130 CMR 504.002: *U.S. Citizens* or qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens* and 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 eligibility review; or

- (b) be a nonqualified PRUCOL as described in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)* with a modified adjusted gross income of the MassHealth Disabled Adult household income that is less than or equal to 150% of the FPL; and
- (4) 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 they would pay without access to health insurance, or if purchased by the MassHealth agency in accordance with 130 CMR 505.002(O) and 130 CMR 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.

(K) Access to Employer-sponsored Health Insurance and Premium-assistance Investigations for Individuals Who Are Eligible for MassHealth CommonHealth.

(1) MassHealth may perform an investigation to determine if individuals receiving MassHealth CommonHealth

(a) have health insurance that MassHealth may help pay for; or

(b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

(2) The individual receives MassHealth CommonHealth while MassHealth investigates the insurance.

(a) Investigations for Individuals Who Are Enrolled in Health Insurance.

1. If MassHealth determines that the health insurance that the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth CommonHealth Premium Assistance as described at 130 CMR 506.012: *Premium Assistance Payments*.

2. If MassHealth determines that the health insurance that the

individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual continues to be eligible for MassHealth CommonHealth.

(b) Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance.

1. If MassHealth determines that the individual has access to employer-sponsored health insurance, the employer is contributing at least 50% of the premium cost, and the insurance meets all other criteria described in 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides premium assistance payments as described in 130 CMR 506.012: *Premium Assistance Payments*. **Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 19 years old, the individual is 19 or 20 years old, and has household income less than or equal to 150% of the federal poverty level, or is pregnant.**

2. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth CommonHealth.

130 CMR 505.004. Here, Appellant is categorically eligible for CommonHealth as a disabled working adult pursuant to 130 CMR 505.004(D). According to 130 CMR 505.004(I), disabled working adults eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). For adults above 150% of the FPL, MassHealth uses the following formula:

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	\$40 — \$192

	400% FPL	
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

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

With Appellant’s income at 190% of the FPL based on the disabled adult household composition, Appellant’s CommonHealth premium is \$35.

As referenced above, MassHealth requires applicants and members enroll in health insurance available to them. 130 CMR 505.004(J) and (K). By regulation, MassHealth “is the payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law.” 130 CMR 503.007. Regarding health insurance, the regulation provides that

- (A) Health Insurance. Every applicant and member must obtain and maintain available health insurance in accordance with 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*. Failure to do so **may result in loss or denial of eligibility** unless the applicant or member is
- (1) receiving MassHealth Standard or MassHealth CommonHealth; and
 - (2) younger than 21 years of age or pregnant.

130 CMR 503.007(A) (emphasis added).

Appellant is required to obtain and maintain health insurance and has ESI available to him through his employer pursuant to 130 CMR 505.004(J) and (K) and 130 CMR 503.007(A), for which MassHealth will make a premium assistance payment. Accordingly, MassHealth was not incorrect in issuing the October 6, 2024 notice terminating Appellant’s benefit for failing to enroll in ESI. As such, this appeal is denied.

Appellant is eligible for a premium assistance payment for his CommonHealth coverage pursuant to 130 CMR 506.012(A)(3). The premium assistance payment will be paid to Appellant directly each month. 130 CMR 506.012(F)(1)(b). Each monthly premium assistance payment is for health insurance coverage in the following month. 130 CMR 506.012(F)(1)(e). Appellant is responsible for

a required member contribution of \$35 pursuant to 130 CMR 506.012(D)(2)(a)(2) (the same formula as used in 130 CMR 506.011(B)(2)(b)).

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

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

MassHealth Representative: Premium Assistance, Kim Johnson-Cheek