

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2416353
Decision Date:	12/10/2024	Hearing Date:	11/25/2024
Hearing Officer:	Susan Burgess-Cox		



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

Appearance for Appellant:

Pro se

Appearance for MassHealth:

Doly Encarnacion & Karishma
Raja



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APPEAL DECISION

Appeal Decision:	Approved	Issue:	Community Eligibility – Under 65 Income
Decision Date:	12/10/2024	Hearing Date:	11/25/2024
MassHealth's Reps.:	Doly Encarnacion & Karishma Raja	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	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 27, 2024, MassHealth notified

the appellant that she is approved for MassHealth CommonHealth as of May 10, 2024. (130 CMR 505.000; Exhibit 1). MassHealth determined that the appellant would have to pay a premium of \$52.00 each month starting in September 2024. (130 CMR 506.011; Exhibit 1). The appellant filed an appeal in a timely manner on October 23, 2024. (130 CMR 610.015). An agency determination regarding the scope and amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant became eligible for MassHealth CommonHealth as of May 10, 2024, and would be required to pay a monthly premium of \$52.00 each month starting in September 2024.

Issue

Whether MassHealth was correct in determining the appellant's eligibility for CommonHealth and the calculation of a premium in the amount of \$52.00 pursuant to 130 CMR 505.004 and 130 CMR 506.011.

Summary of Evidence

All parties appeared by telephone. Representatives from the Charlestown MassHealth Enrollment Center (Charlestown MEC) and Premium Billing Unit (PBU) appeared to represent the agency. Documents submitted by the PBU were incorporated into the hearing record as Exhibit 4.

The appellant was approved for MassHealth CommonHealth as of May 10, 2024 with a monthly premium of \$52.00 starting in September 2024. The appellant is under the age of 65 and determined eligible as a family group of one. MassHealth verified the appellant's disability status and determined the appellant eligible for MassHealth CommonHealth. (Testimony; Exhibit 1; Exhibit 4).

The Charlestown MEC representative testified that the agency calculated a premium based on information obtained through a data matching system. The Charlestown MEC representative could not provide information on the income amount obtained through this system or how the agency calculated the premium amount as the system only generated a federal poverty level figure for the agency to use in determining eligibility and calculating a premium. At the time of the eligibility decision on appeal, the agency determined that the appellant's income was at 258.85% of the federal poverty level.

The Charlestown MEC representative acknowledged that the appellant reported income of \$1,500 to the agency stating that the agency did not have verification of this income amount so

did not utilize it in calculating a premium. As noted above, the Charlestown MEC representative could not provide information on the income figures utilized by the agency in calculating a premium.

Utilizing the federal poverty level presented by MassHealth and a regulatory premium formula where a premium starts at \$40 for individuals with income over 200% of the federal poverty level and adding \$8 for each additional 10%, an individual with income at 258.85% of the federal poverty level would have a monthly premium of \$80 [$\$40 + \$8 + \$8 + \$8 + \$8 + \$8 = \80). The agency also utilizes a supplemental premium formula for individuals who have other insurance. Individuals who have other insurance and income above 200% of the federal poverty level to 400% of the federal poverty level pay 65% of the full premium. This calculation would result in a premium of \$52.00 [$80 \times .65 = \52.00] which is the amount listed on the notice.¹ As noted above, the MassHealth representative at hearing could not explain the basis for any calculation other than stating that the agency's system generated figures to use in determining eligibility.

¹ During the hearing, the hearing officer did some quick calculations to determine a possible income amount utilized by the agency in determining eligibility to try and clarify the facts and provide the appellant with the opportunity to respond to the facts presented by MassHealth. It was noted that an individual with income at 258.85% of the federal poverty level would have a monthly gross income of \$3,286.22 after adding the 5% disregard of \$62.75 to a calculated income amount of \$3,223.47 [$\$1,255 \times 2.56.85 = \$3,223.47$]. Neither MassHealth representative could verify this as an income amount utilized by the agency.

The PBU representative testified that the appellant owes premiums of \$52 for September 2024, October 2024 and November 2024. The PBU representative testified that the appellant's coverage terminated on November 12, 2024 due to nonpayment of premiums. The PBU representative testified that their department is not involved in calculating a premium amount or determining eligibility so could only provide testimony regarding the amount determined to be due to the agency.

The appellant testified that she receives \$1,500 each month from the Social Security Administration. The MassHealth representative verified that the agency received this information. The appellant testified that she has been eligible for MassHealth in the past and never had to pay a premium. Utilizing the eligibility figures table and applying the regulatory 5% disregard of \$62.75, the appellant's reported income of \$1,500 places the appellant at 114.52% of the federal poverty level [$\$1,500 - \$62.75 = \$1,437.25$] [$\$1,437.25 \div \$1,255 = 114.52\%$]. The appellant noted that she does have Medicare.

Findings of Fact

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

1. The appellant was approved for MassHealth

CommonHealth as of May 10, 2024 with a monthly premium of \$52.00 beginning in September 2024.

2. The appellant is a family group of one.
3. The appellant is a disabled adult.
4. At the time of the eligibility decision the agency determined that the appellant's income was at 258.85% of the federal poverty level.
5. No source or amount of income was presented by the agency.
6. Utilizing the federal poverty level guidelines and a regulatory premium formula where a premium starts at \$40 for individuals with income over 200% of the federal poverty level and adding \$8 for each additional 10%, the appellant would have a monthly premium of \$80 [$\$40 + \$8 + \$8 + \$8 + \$8 = \80].
7. The agency utilizes a supplemental premium formula for individuals who have other insurance.
8. Individuals with income above 200% of the federal poverty level to 400% of the federal poverty level pay 65% of the full premium.

9. This calculation would result in a premium of \$52.00 [$\$80 \times .65 = \52.00] which is the amount listed on the notice.
10. MassHealth and the appellant reported that the agency has reported income of \$1,500.
11. The appellant is enrolled in Medicare.

Analysis and Conclusions of Law

MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits. (130 CMR 501.003(A)). MassHealth offers several coverage types. (130 CMR 501.003(B)). The coverage type for which an individual is eligible is based on their income and circumstances. (130 CMR 515.003(B)).

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- (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 (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. (130 CMR 505.001). Both programs also have financial standards. (130 CMR 505.001). Disabled adults 21 through 64 years old can be eligible for MassHealth Standard if the modified adjusted gross income (MAGI) of the household is less than or equal to 133% of the federal poverty level (FPL). (130 CMR 505.002(E)). MassHealth CommonHealth is for

disabled adults, disabled working adults, disabled young adults, and disabled children who have income over 133% of the federal poverty level and may be assessed a premium. (130 CMR 505.004).

The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001).

MassHealth determines household composition through the Modified Adjusted Gross Income (MAGI) composition rules and the MassHealth Disabled Household composition rules. (130 CMR 506.002(A)). Both parties acknowledged that the appellant has been deemed disabled. Therefore, her eligibility is determined through the MassHealth Disabled 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 19 years old if living with him or her; and
- (4) if any woman described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children. (130 CMR 506.002(C)).

Based on testimony and evidence presented at hearing, the appellant's household consists of herself alone. (130 CMR 506.002(B)(3)).

Countable household income includes earned income described in 130 CMR 506.003(A)² and unearned income described in 130 CMR 506.003(B)³ less deductions described in 130 CMR 506.003(D).⁴ (130 CMR 506.007). Income of all the household

² Pursuant to 130 CMR 506.003(A)(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. The regulations also include methods for the agency to use to calculate earned income for the self-employed, S-Corporations, Partnerships and seasonal employment.

³ Pursuant to 130 CMR 506.003(B), countable income includes, in relevant part, unearned income, which "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."

⁴ MassHealth allows the following deductions from countable income when determining MAGI:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses;
- (5) self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse;
- (9) individual retirement account (IRA);

members forms the basis for establishing an individual's eligibility. (130 CMR 506.007). In this case, the income from the appellant alone forms the basis for establishing eligibility for MassHealth. The appellant did not present evidence of any of these deductions for MassHealth to consider. (130 CMR 506.003(D)).

In determining monthly income, five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard. (130 CMR 506.007(A)).

Testimony presented by both parties indicates that MassHealth incorrectly calculated the appellant's household income in determining eligibility. (130 CMR 506.007(A)). At hearing, MassHealth did not report any income amount for which they based their decision. The representative at hearing could only testify to how the appellant's income compared to the federal poverty level of \$1,255 stating that the agency had information that the appellant's income was at 256.85% of the federal poverty level. The MassHealth representative could not testify as to how the agency came up with this figure merely stating that the agency relies on data sources and a system to

(10) student loan interest; and

(11) higher education tuition and fees. (130 CMR 506.003(D)).

determine eligibility. None of those data sources were articulated by the representative.

The agency should be able to come to the hearing prepared to present facts for both the appellant and the Board of Hearings to review and respond. Simply presenting a percentage generated from “a data matching system” is not sufficient. As noted above, the hearing officer performed a calculation for an individual with income at 256.85% of the federal poverty level resulting in a monthly gross income of \$3,286.22. Neither party presented evidence of the source(s) of income in this amount.

Income of \$1,500 (reported by the appellant at hearing and acknowledged by the MassHealth representative) and the application of the 5% disregard provides countable income of \$1,437.25 and places the appellant at 114.52% of the federal poverty level [$\$1,500 - \$62.75 = \$1,437.25$] [$\$1,437.25 \div \$1,255 = 114.52\%$]. This countable income does not exceed 133% of the federal poverty level. Based upon the testimony presented by both parties at hearing, the appellant qualifies for MassHealth Standard.

The decision made by MassHealth was not correct. This appeal is approved. The agency must determine the appellant eligible for MassHealth Standard without a premium as of May 10, 2024.

While the income amount reported by both parties indicates that the appellant would not have to pay a premium, this

decision will touch on the possible calculation of a premium listed in the notice for informational purposes and to ensure that the agency recognizes their error in calculating a premium without providing a sufficient basis for the calculation at hearing.

MassHealth premiums are calculated based on a household's modified adjusted gross income (MAGI) and their household size as described in 130 CMR 506.002 and 130 CMR 506.003 and the premium billing family group (PBFG) rules as described in 130 CMR 506.011(A). (130 CMR 506.011).

Pursuant to 130 CMR 506.011(B)(2)(b), the full premium formula for adults with household income above 150% of the FPL is provided as follows. 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. (130 CMR 506.011(B)(2)(b)).

CommonHealth Full Premium Formula		
Base Premium	Additional Premium Cost	Range of Monthly Premium Cost
Above 150% FPL start at \$15	Add \$5 for each additional 10% FPL	\$15 - \$35
Above 200% FPL start at \$40	Add \$8 for each additional 10% FPL	\$40 - \$192
Above 400% FPL start at \$202	Add \$10 for each additional 10% FPL	\$202 - \$392

Above 600% FPL start at \$404	Add \$12 for each additional 10% FPL	\$404 - \$63
Above 800% FPL start at \$646	Add \$14 for each additional 10% FPL	\$646 - \$912
Above 1,000% FPL start at \$928	Add \$16 for each additional 10% FPL	\$928 + greater

Utilizing the FPL information presented by MassHealth, income at 256.85% of the FPL would be a gross income of \$3,286.22 and MAGI of \$3,223.47 after applying the 5% disregard. This would result in a full premium of \$80 [\$40 + \$8 + \$8 + \$8 + \$8 + \$8 = \$80]. (130 CMR 506.011(B)(2)(b)).

A lower supplemental premium is charged to members who have health insurance to which MassHealth does not contribute. (130 CMR 506.011(B)(2)(c)). The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided as follows:

CommonHealth Supplemental Premium Formula	
% of Federal Poverty Level (FPL)	Monthly Premium Cost
Above 150% to 200%	60% of full premium
Above 200% to 400%	65% of full premium

Above 400% to 600%	70% of full premium
Above 600% to 800%	75% of full premium
Above 800% to 1,000%	80% of full premium
Above 1,000%	85% of full premium

The parties did not dispute the fact that the appellant has Medicare. This would result in the appellant having to pay a supplemental premium if her income was above 150% of the federal poverty level. As noted above, the income amount reported by the appellant and verified as received by the Charlestown MEC representative places the appellant's income well below this level. As noted above, the decision made by MassHealth was not correct. As this appeal is approved, MassHealth shall rescind any premium bills and determine the appellant eligible for MassHealth Standard as of May 10, 2024.

The regulations require the agency to review eligibility once every 12 months. (130 CMR 502.007(A)). Eligibility may also be reviewed as a result of a member's change in circumstances, or a change in MassHealth eligibility rules, or as a result of a member's failure to provide verification within requested time frames. (130 CMR 502.007(A)). MassHealth agency updates eligibility based on information received as a result of such review. (130 CMR 502.007(A)). Should MassHealth believe there is an error in the appellant's current eligibility based upon

this hearing decision, they can perform such a review. At this time, the testimony and evidence presented at hearing did not support the decision on appeal.

This appeal is approved.

Order for MassHealth

Rescind notices issued on August 27, 2024 and November 12, 2024, determine the appellant eligible for MassHealth Standard as of May 10, 2024 with no premium due to the agency.

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.

Susan Burgess-Cox

Hearing Officer
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown
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