

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in Part	<b>Appeal Number:</b>	2417779
<b>Decision Date:</b>	1/21/2025	<b>Hearing Date:</b>	12/16/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	12/27/2024

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Sherri Paiva & Karishma Raja



*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 in Part	<b>Issue:</b>	Eligibility - Income
<b>Decision Date:</b>	1/21/2025	<b>Hearing Date:</b>	12/16/2024
<b>MassHealth's Reps.:</b>	Sherri Paiva & Karishma Raja	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 November 13, 2204, MassHealth notified the appellant that he is approved for MassHealth CommonHealth as of October 12, 2024 and he must pay a premium of \$104 each month starting in December 2024. (130 CMR 505.004; 130 CMR 506.011; 130 CMR 506.015; Exhibit 1). The appellant filed a timely appeal on November 19, 2024. (130 CMR 610.015; Exhibit 2). 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 is eligible for MassHealth CommonHealth as of October 12, 2024 and must pay a monthly premium of \$104 each month starting in December 2024. (130 CMR 505.004; 130 CMR 506.011; 130 CMR 506.015).

### Issue

Whether MassHealth was correct in determining the appellant eligible for CommonHealth and calculating a premium of \$104.00 as of October 12, 2024.

## Summary of Evidence

All parties appeared by telephone. Representatives from the Taunton MassHealth Enrollment Center (Taunton MEC) and Premium Billing Unit (PBU) appeared to represent the agency. Documents submitted by the PBU were incorporated into the hearing record as Exhibit 6.

The notice on appeal states that the appellant is approved for MassHealth CommonHealth as of October 12, 2024 with a monthly premium of \$104. At hearing, the Taunton MEC representative testified that the appellant is approved for MassHealth CommonHealth as of September 30, 2024 based upon an October 10, 2024 decision from the UMass Disability Evaluation Services (DES) deeming the appellant disabled. The MassHealth representative testified that coverage can only go back 10 days prior to the receipt of a reported change. In this case, the reported change was the decision by DES that the appellant is disabled.

Prior to the decision on appeal, the appellant was not eligible for MassHealth but possibly eligible for coverage through the Massachusetts Health Connector. The MassHealth representative testified that the appellant's current gross countable income of \$4,443.25<sup>1</sup> places him at 354% of the federal poverty level. The MassHealth representative testified that at this time, the appellant is eligible for MassHealth CommonHealth as he has been deemed disabled by the UMass Disability Evaluation Services and his income is over the guidelines to qualify for MassHealth Standard. A decision from December, 2023, which is beyond the scope of this appeal filed in December, 2024, states that the appellant is not eligible for MassHealth because his income is too high. (Exhibit 6). The notice states that the appellant may be eligible for a plan through the Massachusetts Health Connector. (Exhibit 6).

The representative from the Taunton MEC testified that individuals with income over 150% of the federal poverty level are assessed a premium. Individuals with income above 200% of the federal poverty level (FPL) start with a premium of \$40 and an additional \$8 is added for each additional 10% of the FPL until 400% of the FPL. An individual with other insurance pays a portion of that premium. The appellant has private insurance through his employer. Based on information provided by the appellant regarding his income and access to private insurance, MassHealth utilized the regulatory formula in calculating a premium. In this case, the appellant would have a base premium of \$160 ( $\$40 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 + \$8 = \$160$ ). As an individual with income above 200% and less than 400% of the FPL, the appellant is required to pay only 65% of the full premium. In this case, 65% of \$160 = \$104. This is the amount calculated by MassHealth in the notice on appeal.

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<sup>1</sup> In calculating financial eligibility, MassHealth applies a disregard of 5% of the FPL to a member's gross income to determine a countable income amount. In this case, applying a 5% disregard of \$62.75 to gross income of \$4,506 equals countable income of \$4,443.25.

The appellant did not present any evidence or testimony to challenge the income information presented by MassHealth. The appellant was seeking coverage earlier than September 2024. The appellant testified that he has submitted a disability supplement in the past and was denied coverage. The appellant admitted that he did not appeal earlier decisions. The appellant testified that one other denial notice may have been recently. The Taunton MEC representative testified that their system only shows a decision by DES from October 2024, and other eligibility decisions deeming the appellant possibly eligible for a plan through the Massachusetts Health Connector.

The appellant submitted documents which were incorporated into the hearing record as Exhibit 4. The documents include medical bills dating back to January 2024. The Taunton MEC representative testified that MassHealth cannot provide coverage back to that date as the appellant was not categorically eligible for MassHealth at that time. The MassHealth representative noted that the appellant could have appealed the eligibility decision issued in December 2023 but noted that it was not something that the agency could address at this appeal which was filed in November 2024.

The record was held open to provide the appellant with the opportunity to present any additional evidence and MassHealth to respond to any submission. (Exhibit 6). Nothing was received by the Board of Hearings from either party at the close of the record open period.

## **Findings of Fact**

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

1. The appellant was approved for MassHealth CommonHealth as of September 30, 2024 with a monthly premium of \$104 with payments beginning on December 1, 2024.
2. The appellant is a family group of one.
3. The appellant was deemed disabled in October, 2024.
4. The appellant is employed.
5. After applying a regulatory 5% disregard of \$62.75, the appellant's countable income of \$4,443.25 places him at 354% of the federal poverty level.
6. The appellant has private insurance through his employer.
7. 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, the appellant would have a monthly premium of \$160.

8. The appellant has other insurance.
9. The agency utilizes a supplemental premium formula for individuals who have other insurance.
10. Individuals with income above 200% of the federal poverty level up to 400% of the federal poverty level pay 65% of the full premium.
11. This calculation would result in a premium of \$104.00 [ $\$160 \times .65 = \$104$ ].

## **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). However, both programs also have financial standards. (130 CMR 505.001).

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).

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. 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)). Information presented by the appellant regarding the receipt of disability benefits from the Social Security Administration shows that appellant is a disabled adult. 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 himself alone. (130 CMR 506.002(B)(3)).

Pursuant to 130 CMR 506.003, countable household income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) less deductions described in 130 CMR 506.003(D). (130 CMR 506.003). The appellant has only unearned income from the Social Security Administration. (130 CMR 506.003(B)).

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);

- (10) student loan interest; and
- (11) higher education tuition and fees. (130 CMR 506.003(D)).

The appellant did not present evidence of any of these deductions for MassHealth to consider. (130 CMR 506.003(D)).

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. (130 CMR 506.007). Different households may exist within a single family, dependent on the family members' familial and tax relationships to each other. (130 CMR 506.007). As stated above, the appellant's household meets the definition of a MassHealth Disabled Adult household. (130 CMR 506.002). The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth Disabled Adult households. (130 CMR 506.007). Countable income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) less deductions described in 130 CMR 506.003(D). (130 CMR 506.007). Income of all the household 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.

In determining monthly income, MassHealth averages weekly income by 4.333. (130 CMR 506.007(A)). 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)). MassHealth correctly calculated the appellant's household income in determining eligibility. (130 CMR 506.007(A)).

The appellant's countable income of \$4,443.25 places the appellant at 354% of the federal poverty level [ $\$4,506.25 - \$62.75 = \$4,443.25$ ] [ $\$4,443.25 \div \$1,255 = 354\%$ ]. This countable income exceeds 133% of the federal poverty level for a family group of one [ $\$1,670$ ], making the appellant ineligible for MassHealth Standard. (130 CMR 505.002(E)(1)(b)). The decision made by MassHealth regarding eligibility for MassHealth Standard was correct.

Under the published regulations at 130 CMR 505.004, to qualify for MassHealth CommonHealth, a disabled adult must meet certain requirements. If the disabled adult is working, he or she must meet the following requirements:

- (1) be aged 21 through 64 (For those aged 65 and older, see 130 CMR 519.012.);
- (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 MBR 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;

- (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).

The appellant is working, so eligible for MassHealth CommonHealth under the regulations as well as the eligibility operations memoranda (EOM) that went into effect to remove barriers to qualify for MassHealth.

Pursuant to 130 CMR 506.011, MassHealth may charge a monthly premium to MassHealth Standard, CommonHealth, or Family Assistance members who have income above 150% of the federal poverty level (FPL), as provided in 130 CMR 506.011. MassHealth premiums amount are calculated based on a member's household 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 (PBF) rules as described in 130 CMR 506.011(A). (130 CMR 506.011). Certain members are exempt from paying premiums, in accordance with 130 CMR 506.011(J). (130 CMR 506.011). Neither party presented evidence of the appellant being categorized as a member who is exempt from paying a premium.

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)).

<b>CommonHealth Full Premium Formula</b>		
<b>Base Premium</b>	<b>Additional Premium Cost</b>	<b>Range of Monthly Premium Cost</b>
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

The appellant's income is above 200% of the federal poverty level but less than 360% of the federal poverty level resulting in a full premium of \$160 each month. (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 200% of the FPL is provided as follows:

<b>CommonHealth Supplemental Premium Formula</b>
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<b>% of Federal Poverty Level (FPL)</b>	<b>Monthly Premium Cost</b>
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 appellant has other insurance and MassHealth does not contribute to it. Therefore, in calculating a monthly premium, MassHealth utilized a supplemental premium formula. As the appellant's income is above 200% of the federal poverty level, he is required to pay 65% of the full premium which would result in a monthly premium of \$104.00 as calculated by MassHealth. This decision was also correct.

The appellant was also challenging the start date of coverage. As the appellant had applied for MassHealth in the past and underwent an eligibility review, this current eligibility determination was for an existing member who had a change in benefits. In this case, the appellant's benefits went from eligible for a plan through the Massachusetts Health Connector and ineligible for MassHealth. For someone whose coverage type changes due to a change in circumstances, and results in a more comprehensive benefit, the start date of the new coverage is ten days prior to:

- (a) the receipt of the requested verifications;
- (b) the receipt date of the annual renewal;
- (c) the date of the eligibility determination for reported changes that do not result in request for verification; or
- (d) the date of the MassHealth agency's eligibility determination due to information in the member's case file; (130 CMR 502.006(B)).

In this case, neither party had information regarding the submission of the appellant's information to DES, but only the date in which the decision was made by DES. MassHealth had information in the appellant's casefile regarding the decision by DES on October 10, 2024. Therefore, MassHealth was correct in determining eligibility 10 days prior to the receipt of that information which was September 30, 2024 as testified by the MassHealth representative at hearing. This decision was correct.

The appellant was provided with the opportunity to present evidence related to the filing of the disability supplement, other notices or other information regarding the decision on appeal both at the hearing and during a record open period but failed to provide evidence other than past due bills, which are not within the scope of this appeal.

The decision made by MassHealth regarding coverage type and start date are both correct.

This appeal is approved in part as the MassHealth representative at hearing noted that the agency's system indicated that the appellant was eligible for CommonHealth as of September 30, 2024 and the notice on appeal has a start date of October 12, 2024. The appellant will be provided with that additional coverage based on the testimony presented at hearing.

## **Order for MassHealth**

Determine the appellant eligible for MassHealth CommonHealth as of September 30, 2024.

## **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.

## **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

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