

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part/ Denied in part	Appeal Numbers:	2501517, 2419811
Decision Date:	3/31/2025	Hearing Date:	02/20/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:




Appearance for MassHealth:

Kiana St. Jean, Tewksbury 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

Appeal Decision:	Approved in part/ Denied in part	Issue:	Community Eligibility-Over- 65- Income
Decision Date:	3/31/2025	Hearing Date:	02/20/2025
MassHealth's Rep.:	Kiana St. Jean	Appellant's Rep.:	
Hearing Location:	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

Through a notice dated October 3, 2024, MassHealth notified Appellant that his income exceeded program limits for MassHealth Standard coverage, and calculated a \$0 deductible for CommonHealth coverage, and a \$120 monthly premium due November 1, 2024. (130 CMR 519.005, 520.028 and Exhibit 1A and Exhibit 4). Appellant filed an appeal on December 27, 2024, which was dismissed as not timely on January 9, 2025. Appellant submitted a request to vacate the dismissal on January 17, 2025 which was allowed by the Board of Hearings on February 10, 2025 (Exhibit 2). Through a notice dated January 13, 2025, MassHealth informed Appellant that MassHealth coverage would terminate on January 27, 2025 for failure to pay the monthly premium (130 CMR 506.011 and Exhibit 1). On January 22, 2025, Appellant timely filed an appeal of the January 13, 2025 (130 CMR 610.015(B) and Exhibit 2). Notice of a change in the scope of assistance and termination for failure to pay a premium are valid grounds for appeal (130 CMR 610.032). The appeals filed on each notice were combined into one hearing record (130 CMR 610.073). Pursuant to 130 CMR 610.081, the hearing record was reopened for MassHealth to verify Appellant's Medicare status, which was timely submitted (Exhibit 6).

Action Taken by MassHealth

MassHealth notified Appellant that his income exceeded program limits for MassHealth Standard coverage and calculated a \$120 monthly premium due. MassHealth also notified Appellant that coverage would terminate on January 27, 2025 for failure to pay the monthly premium.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, 506.007, 506.011 in determining that Appellant's income exceeds program limits for MassHealth Standard coverage, and in calculating a \$120 monthly premium due for CommonHealth coverage. A second issue is whether MassHealth correctly terminated coverage for failure to pay a monthly premium.

Summary of Evidence

A MassHealth eligibility representative appeared by phone and testified that on July 23, 2024, Appellant received a notice that a renewal application was due by September 6, 2024. The application was returned to MassHealth on August 3, 2024, and Appellant was notified of a \$0 deductible and was approved for CommonHealth coverage on October 3, 2024 with a \$120 monthly premium (Exhibit 1A and Exhibit 4). Appellant is over the age of 65 and has been deemed disabled by Social Security. Appellant lives in a household size of one person. Appellant receives monthly Social Security income of \$1,718. Appellant is employed and submitted paystubs with the August 23, 2024 application. The paystubs show gross weekly income for weeks ending July 25, 2024: \$411.30; August 8, 2024: \$581.84; and August 15, 2024: \$505.60 (Exhibit 5, pp. 3-5). A paystub dated January 16, 2025 was submitted separately, and MassHealth testified it will be used to recalculate the premium going forward after the appeal process. The paystub for the pay period January 5, 2025 through January 11, 2025 shows weekly gross pay of \$276.86, multiplied by 4.333 = \$1,199.63 (Exhibit 5, p. 2). MassHealth testified that an average income is derived from the 3 paystubs submitted and multiplied by 4.333 to represent average monthly gross income of \$2,164.68, which combined with Appellant's Social Security income yields gross monthly income of \$3,882.68. For a MassHealth member over 65 years of age to be eligible for MassHealth Standard, household income must be at or below 100% of the federal poverty level, \$1,255. Because Appellant's combined household income exceeds this amount, he does not qualify for MassHealth Standard; however, on October 3, 2024, Appellant was determined eligible for CommonHealth as a working disabled adult with a monthly premium of \$120 effective November 1, 2024 (Exhibit 4). The Premium Billing representative explained that MassHealth determines the premium amount using formulas based on the individual or household gross income. Premium Billing also testified that Appellant has not paid the \$120 premium for November 2024 through February 2025, which has accrued to \$480 owed, and resulted in the termination notice on January 13, 2025, that informed Appellant that coverage would end on January 27, 2025 (Exhibit 1). The hearing record was

reopened for MassHealth to verify Appellant's Medicare status. The MassHealth representative submitted a response stating that Appellant is currently enrolled in Medicare, and when Appellant was approved for CommonHealth in October 2024, MassHealth was paying for his Part B premium, resulting in the full CommonHealth premium formula directing a \$120 premium (Exhibit 6).

Appellant appeared at hearing by telephone and was accompanied by a case manager supervisor from the Department of Mental Health. Appellant testified that he cannot afford to pay the monthly premium with his other expenses. Appellant and his representative testified that he submitted a hardship waiver request which was denied on January 27, 2025, but has not been appealed. Appellant's representative stated that MassHealth should not use paystubs to calculate income because the paystubs show vacation time paid to Appellant. He testified that Appellant more accurately makes about \$250 per week regardless of the what the paystubs from July and August 2024 record, and MassHealth should use the January 2025 paystub as a more accurate representation of income for November 2024. Appellant added that he is Medicare eligible, and CommonHealth is supplemental insurance.

Findings of Fact

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

1. On July 23, 2024, Appellant received a notice that a renewal application was due by September 6, 2024. The application was returned to MassHealth on August 3, 2024.
2. Appellant is over the age of 65 and has been deemed disabled by Social Security.
3. Appellant is a household size of one person.
4. Appellant receives monthly Social Security income of \$1,718.
5. Appellant is employed and submitted paystubs with the August 23, 2024 application. The paystubs show gross weekly income for weeks ending July 25, 2024: \$411.30; August 8, 2024: \$581.84; and August 15, 2024: \$505.60. Average income is derived from the 3 paystubs submitted and multiplied by 4.333 to represent average monthly gross earned income of \$2,164.68.
6. The paystub for the pay period January 5, 2025 through January 11, 2025 shows weekly gross pay of \$276.86, multiplied by 4.333 = \$1,199.63.
7. 100% of the federal poverty level for a household size of 1 is \$1,255.¹

¹ The determinations at issue are based on the 2024 amount which has been updated to \$1,305 for 2025.

8. On October 3, 2024, Appellant was determined eligible for CommonHealth with a monthly premium of \$120 effective November 1, 2024.
9. Appellant has not paid the \$120 premium for November 2024 through February 2025, which has accrued to \$480 owed, and resulted in the termination notice on January 13, 2025, that informed Appellant that coverage would end on January 27, 2025.
10. Appellant is currently enrolled in Medicare. When Appellant was approved for CommonHealth in October 2024, MassHealth was paying for his Part B premium, resulting in the full CommonHealth premium formula directing a \$120 premium.

Analysis and Conclusions of Law

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable-income amount, as defined in 130 CMR 520.009: *Countable-income Amount*, of the individual or couple is less than or equal to 100% of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

519.012: MassHealth CommonHealth

(A) Working Disabled Adults

(1) Eligibility Requirements. MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age and older in the same manner as it is available to those younger than 65 years old. This means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2),(3), and (5) to be eligible for CommonHealth.²

² 130 CMR 505.004(B): Disabled working adults must meet the following requirements:

....

(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*;

....

(5) be ineligible for MassHealth Standard

(2) Other Provisions. The following provisions apply to CommonHealth applicants and members 65 years of age and older: 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2), and (N).³

....

(C) Financial Eligibility. Financial eligibility for all MassHealth CommonHealth applicants and members is based on the regulations in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. 130 CMR 520.000: *MassHealth: Financial Eligibility* does not apply.

130 CMR 519.012

506.002: Household Composition

....

³ 130 CMR 505.004:

- (H) Determination of Disability. Disability is established by
- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
 - (2) a determination of disability by the SSA; or
 - (3) a determination of disability by the Disability Evaluation Services (DES).

(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. (Emphasis added)

(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.

....

(M) Medical Coverage Date.

- (1) The medical coverage date for MassHealth CommonHealth is described at 130 CMR 502.006: *Coverage Dates*, except as described at 130 CMR 505.004(M)(2) and (3).
- (2) Persons described in 130 CMR 505.004(C) who have been notified by the MassHealth agency that they must meet a one-time deductible have their medical coverage date established in accordance with 130 CMR 506.009(E): *Notification of the Deductible*.
- (3) Provisional eligibility is described in 130 CMR 502.003(E): *Provisional Eligibility*.

(N) Extended CommonHealth Coverage. MassHealth CommonHealth members (described in 130 CMR 505.004(B)) who terminate their employment, continue to be eligible for MassHealth CommonHealth for up to three calendar months after termination of employment provided they continue to make timely payments of monthly premiums.

- (C) MassHealth Disabled Adult Household. The 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.

130 CMR 506.002(C).

506.007: Calculation of Financial Eligibility

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type.

(1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(M).

(b) 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).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) 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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the Federal Register using the following formula. The MassHealth agency

adjusts these standards annually.

- (1) Multiply the annual 100% figure posted in the Federal Register by the applicable federal poverty level income standard.
- (2) Round these annual figures up to the nearest hundredth.
- (3) Divide by 12 to arrive at the monthly income standards.

130 CMR 506.007(A), (B), and (C).

MassHealth correctly calculated income based on paystubs submitted by Appellant with his renewal application. It is undisputed that the paystubs show gross weekly income for weeks ending July 25, 2024: \$411.30; August 8, 2024: \$581.84; and August 15, 2024: \$505.60. Average income is derived from the 3 paystubs submitted and multiplied by 4.333 to represent average monthly gross earned income of \$2,164.68. Appellant also receives monthly Social Security income of \$1,718. Thus, Appellant's combined earned and unearned gross income is \$3,882.68. Therefore, Appellant's income exceeds 100% of the federal poverty level for a household size of one person, \$1,255. MassHealth correctly determined that Appellant is not eligible for MassHealth Standard (130 CMR 519.005) and is eligible for CommonHealth as a working disabled adult (130 CMR 519.012(A)).

506.011: MassHealth Premiums and the Children's Medical Security Plan (CMSP) Premiums

The MassHealth agency 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. The MassHealth agency may charge a monthly premium to members of the Children's Medical Security Plan (CMSP) who have incomes at or above 200% of the FPL. MassHealth and CMSP premiums amounts 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 (PBFG) rules as described in 130 CMR 506.011(A). Certain members are exempt from paying premiums, in accordance with 130 CMR 506.011(J).

....

(B) MassHealth and Children's Medical Security Plan (CMSP) Premium Formulas

....

- (2) The premium formulas for MassHealth CommonHealth members whose eligibility is described in 130 CMR 505.004(B): *Disabled Working Adults* through (G): *Disabled Children Younger than 18 Years Old* are as follows.

....

- (b) The full premium formula for young adults with household income above 150% of the FPL, adults with household income above 150% of the FPL, and children with household income above 300% 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.**

(Emphasis added)

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 400% FPL	\$40 — \$192
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)

The MassHealth agency assesses a monthly premium for CommonHealth members with household income above 150% of the federal poverty level (130 CMR 506.011). Disabled adults with household income over 200% of the federal poverty level are assessed a premium of \$40 per month, with \$8 added for each additional 10% of the FPL until 400% of the FPL (130 CMR 506.011(B)(2)(b)). A lower supplemental premium is charged to members who have health insurance to which the MassHealth agency does not contribute (130 CMR 506.011(B)(2)(c)).⁴ Appellant's verified total gross monthly income is \$3,882.68 which equates to 309% of the federal poverty level ($\$3,882.68 / \$1,255 \times 100 = \$309\%$) (130 CMR 506.007). The full CommonHealth premium is therefore $\$40 + \$80 = \$120$ for November 2024 and December 2024. The paystub for the pay period January 5, 2025 through January 11, 2025 shows weekly gross pay of \$276.86, multiplied by 4.333 = \$1,199.63, and combined with \$1,718 Social Security income, yields lower gross monthly

⁴ MassHealth verified that it was paying Appellant's Medicare Part B premium resulting in a full premium calculation (See Exhibit 6).

income of \$2,117.63, which equates to 232% of the federal poverty level. The premium amount is reduced based on Appellant's lower reported income and is effective in the calendar month of the reported change, January 2025.⁵ Thus, for January 2025 and February 2025, the premium amount is \$64 (\$40 + \$8+\$8+\$8).⁶

Therefore, the appeal is APPROVED in that the premium amount for January 2025 and February 2025 is reduced to \$64 per month. The appeal is DENIED in that the premium calculation amounts for November 2024 through December 2024 are correct. Because Appellant has not paid the premium amounts due, MassHealth correctly issued the January 13, 2025 notice terminating coverage effective January 27, 2025 (130 CMR 506.011(D)).⁷

⁵ See 130 CMR 506.011(C) Premium Payment Billing.

- (1) With the exception of persons described in 130 CMR 505.004(C): *Disabled Adults*, MassHealth members who are assessed a premium are responsible for monthly premium payments beginning with the calendar month following the date of the MassHealth agency's eligibility determination.
- (2) Persons described in 130 CMR 505.004(C): *Disabled Adults* who are assessed a premium, are responsible for monthly premium payments beginning with the calendar month following the date the deductible period ends, or the calendar month following the month in which the member has verified that the deductible has been met, whichever is later.
- (3) Members who are assessed a revised premium as the result of a reported change, or any adjustment in the premium schedule, are responsible for the new premium payment beginning**
 - (a) with the calendar month following the reported change if the premium is increased; or**
 - (b) with the calendar month of the reported change if the premium is decreased or no longer assessed.** (Emphasis added)

⁶ Appellant's revised earned income is still too high for Standard coverage and does not change his eligibility for CommonHealth.

⁷ (D) Delinquent Premium Payments.

- (1) Termination for Delinquent Premium Payments. 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;
 - (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).
- (2) Default on a Payment Plan.
 - (a) If the member does not make payments in accordance with the payment plan within 30 days of the date on the bill, the member's payment plan is terminated and the past due balance is due in full.
 - (b) If the member is in a premium-paying coverage type and does not pay the past due amount within 60 days of the date on the bill, the member's eligibility is terminated.
 - (c) If a member has defaulted on a payment plan twice within a 24-month period, the member must pay in full any past due balances before they can be determined eligible for a coverage

Order for MassHealth

Rescind aid pending. Continue CommonHealth coverage for 30 days from the date of this hearing decision to allow Appellant to contact Premium Billing and either pay all amounts owed or establish a payment plan to pay \$240 for November 2024 and December 2024, and \$64 per month for January 2025 and February 2025. Otherwise, proceed with termination of coverage.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center
Maximus Premium Billing: Attn: Carmen Fabery

type that requires a premium payment.

(d) A member may be granted additional payment plans if the member has been approved for a hardship waiver as described at 130 CMR 506.011(F).

(3) Referral to State Intercept Program for Collection of Delinquent Payment. The MassHealth agency may refer a member who is 150 days or more in arrears to the State Intercept Program (SIP) in compliance with 815 CMR 9.00: *Collection of Debts*. Members will not be referred to SIP for collection of a past due balance if they have and are currently paying on the payment-plan arrangement that was approved by the MassHealth agency.