

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2500665
<b>Decision Date:</b>	04/03/2025	<b>Hearing Date:</b>	02/05/2025
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Jessica Ramirez (Tewksbury MEC) *via telephone*



*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>	Community Eligibility Under 65/Disability
<b>Decision Date:</b>	04/03/2025	<b>Hearing Date:</b>	02/05/2025
<b>MassHealth's Rep.:</b>	Jessica Ramirez	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center	<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 28, 2024, MassHealth downgraded the appellant's coverage to Health Safety Net benefits and stopped her Premium Assistance payments, stating that her previous benefits had been temporarily protected for a specific reason and MassHealth records showed that her protected status had ended. (See 130 CMR 502.000; 610.000; Ex. 1; Ex. 5, pp. 38-42). Through a second notice sent on the same date, MassHealth informed the appellant that it had stopped her Premium Assistance payments. (See 130 CMR 506.012 and Ex. 5, pp. 43-44). The appellant filed this appeal in a timely manner on January 10, 2025. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth downgraded the appellant's coverage to HSN and stopped her Premium Assistance payments.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 502.000, 506.012, and

610.000, in determining that the appellant's coverage should be downgraded and her Premium Assistance payments stopped.

## Summary of Evidence

A worker from the Tewksbury MassHealth Enrollment Center (MEC), and the appellant attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant is under the age of 65 years old, and lives in a household of one. (Testimony; Ex. 3; Ex. 1). The appellant presently receives income that is equal to 284.80% of the federal poverty level (FPL). (Testimony; Ex. 1; Ex. 5, pp. 38-42). The appellant received MassHealth Standard as a disabled person from January 24, 2022 through May 5, 2023; CommonHealth as a disabled working adult from April 11, 2023 through February 9, 2024; and CommonHealth as a disabled non-working adult from November 27, 2023 through October 3, 2024. (Testimony; Ex. 3, p. 1).

At some point in late 2023 or early 2024, the appellant had submitted an Adult Disability Supplement to the Disability Evaluation Service (DES). (Testimony). On April 9, 2024, DES determined that the appellant was not disabled. (Testimony; Ex. 3, p. 2). The MassHealth representative stated that the appellant continued to receive CommonHealth coverage after this, however. The MassHealth representative stated it was unclear how this happened, as MassHealth had no record that the appellant had submitted an appeal of the DES determination. (Testimony).

The MassHealth representative submitted MassHealth notices dated between April 23 and November 28, 2024. The first, dated April 23, 2024, informed the appellant that she was eligible for CommonHealth. (Testimony; Ex. 5, pp. 1-4). The appellant received other notices on June 3, June 4, June 19, August 7, and October 3, 2024 stating that she was eligible for CommonHealth. (Testimony; Ex. 5, pp. 5-17, 24-28, 31-34). On June 19 and June 27, 2024 the appellant received notices approving her for premium assistance; she received a notice on August 7 terminating her premium assistance; and received a notice on October 3 again approving her for premium assistance. (Testimony; Ex. 5, pp. 18-23, 29-30, 35-37).

Finally, MassHealth sent the appellant two notices on November 28, 2024. The first of these notices informed the appellant that MassHealth was downgrading her coverage from CommonHealth and approving her for Health Safety Net (HSN). (Testimony; Ex. 1; Ex. 5, pp. 38-42). The notice stated that this occurred because her "benefits were temporarily protected for a specific reason such as [she] asked for a fair hearing, there were questions about how [she] qualif[ied], or there was a public health emergency. [MassHealth] records show that [the appellant's] protected status has ended." (Id.). The notice also stated that MassHealth was stopping the appellant's premium assistance payments for one or more of the following reasons: her private health insurance ended; her job ended; her employer changed the amount they contribute towards your coverage; her employer changed health plans and/or your plan no longer meets MassHealth rules; the appellant is eligible for Medicare; and/or other reasons. (Id.). The

second notice separately informed the appellant that MassHealth was stopping her premium assistance for the same reasons listed in the downgrade letter. (Testimony; Ex. 1; Ex. 5, pp. 38-42, 43-44). The November, 2024 notices were the only notices timely appealed for the hearing.

The appellant testified to the following. She had received a disability determination in April 2024, which she stated she later appealed.<sup>1</sup> (Testimony). The appellant stated that she had a doctor's note detailing permanent damage from a car accident that occurred ten years ago, but the DES determination concluded that she was not disabled. (Testimony). MassHealth also incorrectly claimed she did not have employer-sponsored health insurance, despite her employer sending the requested information to MassHealth. (Testimony). The appellant had been paying \$67.60 per month in CommonHealth premiums. (Testimony). The appellant received a notice from Premium Assistance saying she no longer had employer-sponsored insurance, which the appellant disputed. (Testimony; Ex. 5, pp. 43-44). The appellant further explained that after receiving a termination notice, she was told to pay \$462 per month for Health Safety Net coverage, which would have brought her total health insurance costs to nearly \$700 per month. (Testimony). The appellant emphasized that her employer had sent MassHealth the necessary health insurance information and that she had proof of this communication. (Testimony).

## Findings of Fact

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

1. The appellant is under the age of 65 years old, and lives in a household of one. (Testimony; Ex. 3; Ex. 1).
2. The appellant presently receives income that is equal to 284.80% of the FPL. (Testimony; Ex. 1; Ex. 5, pp. 38-42).
3. The appellant was eligible for MassHealth Standard as disabled person from January 24, 2022 through May 5, 2023; CommonHealth as a disabled working adult from April 11, 2023 through February 9, 2024; and CommonHealth as a disabled non-working adult from November 27, 2023 through October 3, 2024. (Testimony; Ex. 3, p. 1).
4. At some point in late 2023 or early 2024, the appellant submitted an Adult Disability Supplement to DES. (Testimony).
5. On April 9, 2024, DES determined that the appellant was not disabled and there is no record that this determination was appealed. (Testimony).
6. Through a notice dated November 28, 2024, MassHealth downgraded the appellant's

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<sup>1</sup> The appellant did not submit any evidence verifying this assertion, and there is no BOH record of the appellant submitting an appeal in 2024.

coverage to Health Safety Net benefits and stopped her Premium Assistance payments, stating that her previous benefits had been temporarily protected for a specific reason and MassHealth records showed that her protected status had ended. (Ex. 1; Ex. 5, pp. 38-42).

7. Through a second notice sent on the same date, MassHealth informed the appellant that it had stopped her Premium Assistance payments. (Ex. 5, pp. 43-44).
8. Both notices stated that MassHealth was stopping the appellant's premium assistance payments for one or more of the following reasons: her private health insurance ended; her job ended; her employer changed the amount they contribute towards your coverage; her employer changed health plans and/or your plan no longer meets MassHealth rules; the appellant is eligible for Medicare; and/or other reasons. (Ex. 1; Ex. 5, pp. 38-42; 43-44).

## Analysis and Conclusions of Law

In order for an adult between the ages of 21 and 64 years old to be eligible for MassHealth CommonHealth, they must be permanently and totally disabled<sup>2</sup>. (130 CMR 505.004(B),(C),(D)). Disability is established by certification of legal blindness by the Massachusetts Commission for the Blind (MCB); a determination of disability by the SSA; or a determination of disability by the Disability Evaluation Services (DES). (130 CMR 505.004(H)).

The record indicates that the appellant is an adult between the ages of 21 and 65, and as such, must prove that she is permanently and totally disabled to qualify for MassHealth CommonHealth. DES determined in April 2024 that the appellant does not meet the criteria for permanent and total disability and notified her of this decision. Although this determination is appealable, there is no evidence showing that the appellant filed an appeal. Additionally, the fair hearing request associated with this appeal is untimely with regard to that DES determination, as it was submitted more than 60 days after the April 2024 determination. (See 130 CMR 610.015). There is no evidence that the MCB has certified the appellant as legally blind, nor is there any indication that the SSA has classified her as disabled. Since there is no evidence that the appellant is permanently and totally disabled, she does not qualify for MassHealth CommonHealth. The appellant can submit another Adult Disability Supplement to MassHealth at any time for DES to re-evaluate her disability status.

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<sup>2</sup> Permanent and Total Disability refers to a condition defined under Title XVI of the Social Security Act or applicable state laws. For adults 18 years or older, it involves a disability that prevents them from engaging in any substantial gainful activity due to a physical or mental impairment. This condition must be expected to result in death or last for at least 12 months. An individual is considered permanently and totally disabled if their impairments are so severe that they cannot perform their previous job or any other type of substantial gainful work, taking into account their age, education, and work experience. This determination includes work available in the national economy, which means jobs that exist in significant numbers across various regions, not just locally, and whether or not specific vacancies exist or the individual would be hired. (See 130 CMR 501.001).

Premium assistance payments are available to MassHealth members who are eligible for the following coverage types: MassHealth Standard; MassHealth Standard for Kaileigh Mulligan; MassHealth CommonHealth; MassHealth CarePlus; MassHealth Family Assistance for HIV-positive adults and HIV-positive young adults; MassHealth Family Assistance for disabled adults whose Disabled Adult MassHealth household income is at or below 100% of the FPL and who are qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs; MassHealth Family Assistance for children younger than 19 years old and young adults 19 through 20 years old whose household MAGI is at or below 150% of the FPL and who are nonqualified PRUCOLs; and MassHealth Family Assistance for children younger than 19 years old whose household MAGI is between 150% and 300% of the FPL and who are citizens, protected noncitizens, qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs. (130 CMR 506.012(A)).

In the notice downgrading the appellant from CommonHealth to HSN and in a second notice sent on the same day, MassHealth also informed the appellant it was terminating her premium assistance payments. Each notice listed possible justifications for this action, including because her private health insurance ended; her job ended; her employer changed the amount they contribute towards your coverage; her employer changed health plans and/or your plan no longer meets MassHealth rules; the appellant is eligible for Medicare; and/or other reasons. The only possible reason in this list applicable in this case is “other reasons.” With reference to the regulations cited above, it is plain that the “other reason” for terminating the appellant’s premium assistance is that her MassHealth CommonHealth coverage ended and the appellant is not eligible for any of the other listed coverage types required for premium assistance.

For the above stated reasons, the 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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957