

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2501513
Decision Date:	04/18/2025	Hearing Date:	02/26/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Raisa Guzman, Charlestown MEC  
Carmen Fabery, Premium Billing



*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, Income; Premium Billing
<b>Decision Date:</b>	04/18/2025	<b>Hearing Date:</b>	02/26/2025
<b>MassHealth's Rep.:</b>	Raisa Guzman Carmen Fabery	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<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 January 10, 2025, MassHealth approved appellant for MassHealth CommonHealth benefits with no monthly premium starting on May 14, 2024. (Ex. 1). Appellant filed this appeal in a timely manner on January 23, 2025, claiming her state income tax refund was taken from her in 2024 and it should not have been taken. (Ex. 2). MassHealth's determination of scope of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved appellant for CommonHealth with no monthly premium.

### Issue

Was MassHealth correct in approving appellant for MassHealth CommonHealth with no monthly premium?

### Summary of Evidence

Appellant, the MassHealth worker (worker) and a representative of Premium Billing all appeared at hearing by telephone. The hearing commenced, all were sworn and documents were marked as evidence. The evidentiary record shows the following: Appellant is in a household of 1 with a monthly income from Social Security of \$1,870, placing her at a federal poverty level (FPL) of 142.65%. (Testimony). Appellant has a verified disability and is under the age of 65. (Testimony; Ex. 7). Appellant received a notice on September 27, 2023 notifying her she was eligible for CommonHealth starting on May 20, 2023, with a monthly premium of \$232. (Testimony; Ex. 4). Appellant was then sent notice on December 14, 2023 terminating her CommonHealth benefit due to non-payment of the monthly premium. (Testimony; Ex. 5, p. 6). On April 22, 2024, appellant was sent notice she was approved for MassHealth Standard starting on May 20, 2023. (Ex. 5, p. 4). Finally, appellant was sent notice on January 10, 2025 notifying her she was found eligible for CommonHealth with no monthly premium, starting on May 14, 2024. (Ex. 1). This notice is the subject of this appeal.

The Premium Billing representative testified appellant was approved for CommonHealth with a monthly premium of \$232, beginning in October 2023. The Premium Billing representative stated appellant was billed \$232 for October 2023 through December 2023. She stated appellant's CommonHealth was terminated in December 2023 due to non-payment of premium. (Testimony; Ex. 5, pp. 1, 6). The Premium Billing representative stated they received information from MassHealth accounting that appellant's tax return payment of \$365 was state intercepted from appellant's tax return on April 11, 2024. (Testimony; Ex. 5, p. 1).

Appellant stated she was appealing "because the state of Massachusetts took my only state income tax return of \$390 last year out of nowhere."<sup>1</sup> She continued by saying the money was taken "because they said I owed money for my health insurance and I said I didn't because I called and told them I did not know why I was being billed \$280 a month when I made \$400 a month." (Appellant Testimony). Appellant stated she filed an appeal for the taking of her tax refund. Appellant stated she had an appeal number of 2407416 from a notice she had in front of her while testifying at the hearing and that paper referenced regulations at 130 CMR 610.034 and 130 CMR 610.035.<sup>2</sup> I explained to appellant the issue before me was the current appeal wherein she was approved for CommonHealth with no monthly premium and her appeal regarding the tax intercept in 2024 was not before me. Appellant did not dispute in any way her current approval for the benefit of CommonHealth with no monthly premium.<sup>3</sup>

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<sup>1</sup> Appellant offered no supporting documentation regarding this issue. She stated this occurred in May 2024. Pursuant to 130 CMR 610.015, this argument is foreclosed as untimely within this appeal of the January 10, 2025 approval notice.

<sup>2</sup> Any issue regarding appeal number 2407416 is not before me. Appellant's recourse regarding this appeal number was governed under judicial review art M.G.L. c. 30A. The regulations cited by appellant pertain to Request for a Fair Hearing and Dismissal for a Request of a Hearing.

<sup>3</sup> Although appellant has waived any argument regarding the accuracy of MassHealth's determination of the notice under appeal, in an abundance of fairness to appellant, this decision addresses the accuracy of MassHealth's

## Findings of Fact

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

1. Appellant was sent notice dated January 10, 2025 notifying her she was found eligible for CommonHealth with no monthly premium, starting on May 14, 2024. (Ex. 1).
2. Appellant is in a household of 1 with a monthly income from Social Security of \$1,870, placing her at an FPL of 142.65% and has a verified disability. Appellant is under the age of 65. (Testimony; Ex. 7).
3. Appellant offered no evidence disputing the approval of the determination by MassHealth that she is eligible for CommonHealth with no monthly premium as indicated in the January 10, 2025.

## Analysis and Conclusions of Law

### 130 CMR 505.004: MassHealth CommonHealth

#### (A) Overview.

- (1) 130 CMR 505.004 contains the categorical requirements and financial standards for MassHealth CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.
- (2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): MassHealth CommonHealth.

#### (C) Disabled Adults. Disabled adults must meet the following requirements:

- (1) be 21 through 64 years old;
- (2) be permanently and totally disabled, as defined in 130 CMR 501.001: Definition of Terms;
- (3) (3) be ineligible for MassHealth Standard;
- (4) (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) (a) meet a one-time-only deductible in accordance with 130 CMR 506.009: The One-time Deductible; or (b) have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 200% of

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determination.

the federal poverty level (FPL) and provide verification that they are HIV positive; and  
(6) comply with 130 CMR 505.004(J)

#### 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 (PBF) rules as described in 130 CMR 506.011(A).

#### 130 CMR 610.015: Time Limits

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(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

(1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;

#### 610.035: Dismissal of a Request for a Hearing

(A) BOH will dismiss a request for a hearing when

(1) the request is not received within the time frame specified in 130 CMR 610.015;

Pursuant to the regulations, appellant does not have income above 150% of the FPL. In the sole issue before me, the approval of appellant for CommonHealth with no monthly premium, MassHealth did not err in its administrative determination that appellant is eligible for CommonHealth with no monthly premium. Accordingly, this 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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Thomas Doyle  
Hearing Officer  
Board of Hearings

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129