

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2505035
Decision Date:	6/16/2025	Hearing Date:	May 05, 2025
Hearing Officer:	Brook Padgett		

Appellant Representative:

Pro se

MassHealth Representatives:

Alysia Campbell, Springfield MEC
Carmen Fabery, Premium Billing



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Community Eligibility; Under 65; 130 CMR 506.007
Decision Date:	6/16/2025	Hearing Date:	May 05, 2025
MassHealth Rep.:	A. Campbell C. Fabery	Appellant Rep.:	Pro se
Hearing Location:	Telephonic	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

The appellant received a notice dated March 05, 2025 stating: MassHealth has determined you are no longer eligible for MassHealth Standard. Your new coverage is MassHealth CommonHealth, effective March 19, 2025. Your coverage will change because your household income is too high. (130 CMR 505.002, 130 CMR 505.004, 130 CMR 519.002, 130 CMR 519.012); Exhibit 2).

The appellant filed this appeal timely on March 28, 2025. (130 CMR 610.015(B); Exhibit 2).

Change in status of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth changed the appellant's MassHealth coverage from Standard to CommonHealth, effective March 19, 2025.

Issue

Did MassHealth correctly determine the appellant's MassHealth eligibility?

Summary of Evidence

A representative from MassHealth testified that the appellant is a Disabled Adult Widow (DAW) who in March 2025 completed a renewal form which indicated her income had increased from \$1,806.00 to \$2,373.00 and that she was currently receiving Medicare Part A. MassHealth stated the appellant's income has been verified at 176.89% of the federal poverty level (FPL) and is over the 133% of the monthly FPL (\$1,735.00) for MassHealth Standard eligibility as a household of one. The representative further stated an individual who is under 65 and receiving Medicare Part A is not eligible for MassHealth Standard and must enroll in MassHealth CommonHealth. The representative explained the appellant was previously protected on MassHealth Standard during the Public Health Emergency (PHE) (COVID 19); however, the emergency protections were lifted in April 2023. The representative indicated MassHealth CommonHealth may require the payment of a premium where MassHealth Standard does not.

A representative from Premium Billing stated the appellant was approved for CommonHealth on March 05, 2025 with a \$30.00 premium beginning April 2025. The appellant has a balance of \$30.00 as of May 02, 2025. (Exhibit 4).

The appellant responded that she is eligible for MassHealth Standard as an "LIS" (low income subsidy) recipient. The appellant maintains the MassHealth reimbursement to physicians under CommonHealth is only \$44.00 and she is very anxious because her doctor, who she has seen for the last 40 years, won't take MassHealth CommonHealth. The appellant agreed with the MassHealth income amounts, but emphasized her increase is only due to her COLA (cost of living allowance) increases. The appellant further argued she was covered under the Pickle amendment and requested she receive Standard coverage (aid pending) until a decision is made on her appeal.

Prior to the close of the hearing, MassHealth indicated the premium calculation is determined by the CommonHealth Supplemental Premium Formula 130 CMR 506.011 because the appellant is receiving Medicare. MassHealth stated the appellant's premium was auto calculated as \$30.00 without the required percentage adjustment applicable to supplemental premiums. MassHealth stated the appellant's premium was recalculated to \$15.00 retroactive to April 2025 after applying the percentage adjustment.

Findings of Fact

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

1. The appellant is over 19 and under 65 years of age, disabled, and a member of a household of one. (Testimony).
2. The appellant is a Disabled Adult Widow. (Testimony).
3. The appellant is a former SSI recipient who is currently receiving RSDI.
4. In March 2025, the appellant informed MassHealth that her income had increased from \$1,806.00 to \$2,373.00. (Testimony).
5. The appellant received a notice dated March 05, 2025 stating: MassHealth has determined you are no longer eligible for MassHealth Standard. Your new coverage is MassHealth CommonHealth, effective March 19, 2025.
6. The appellant has been assessed a CommonHealth premium of \$15.00 beginning April 2025. (Testimony).
7. The appellant's current income equals 176.89% of the federal poverty level for a household of one.
8. 133% of the monthly federal poverty level for a household of one is \$1,735.00.

Analysis and Conclusions of Law

At the beginning of the COVID-19 public health emergency, the federal government issued continuous coverage requirements. Since March 2020, MassHealth put protections in place so that individuals receiving Medicaid would generally not lose their coverage unless they voluntarily withdrew, moved out of state, or passed away.¹ These continuous coverage requirements ended April 01, 2023.² On April 01, 2023 MassHealth began redetermining all members to ensure that they still qualify for their current benefits. During the redetermination period, the appellant reported her income at \$2,373.00 monthly.

¹ See Eligibility Operations Memo 20-09, April 2020.

² See Eligibility Operations Memo 23-18, July 2023.

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The categorical requirements are described in 130 CMR 505.001.³ The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000 (130 CMR 505.001). The financial eligibility for various MassHealth coverage types is determined by comparing the family group's monthly gross income with the applicable income standards for the specific coverage type (130 CMR 506.007(A)).⁴ Generally, eligibility is based on 133% of the federal-poverty level for adults and 200% of the federal-poverty level for children and pregnant women, as well as for adults working for qualified employers and persons who are HIV positive. Children under the age of 19 may establish eligibility for Standard coverage if the gross income of the group is less than or equal to 150% of the federal poverty level (130 CMR 505.002(C)(2)). Disabled persons with income in excess of these applicable standards may establish eligibility for MassHealth CommonHealth (130 CMR 506.007(B)).

The appellant is disabled, under the age of 65, and has verified gross monthly income of \$2,373.00. This monthly income exceeds 133% of the federal poverty level for the appellant's household size (\$1,735.00). Thus, MassHealth correctly determined that the appellant is ineligible for MassHealth Standard and approved the appellant for MassHealth CommonHealth with a premium.

³ (1) Standard - for families (with minor children), pregnant women, children and disabled individuals, including extended benefits; must have income under 133% of federal poverty limit; (2) Prenatal - for pregnant women; (3) CommonHealth - for disabled adults, disabled children, and certain individuals who are HIV positive, and not eligible for MassHealth Standard; (4) Family Assistance - for children, certain employed adults who have access to health insurance from their employers and have income under 200% of the federal poverty limit, and certain individuals who are HIV positive, and are not eligible for MassHealth Standard or CommonHealth; (5) Basic or Buy-In - for the long-term or chronically unemployed, and certain qualified aliens; and (6) Essential - for long term unemployed who have income at or below 100% of the federal poverty limit and are not eligible for Basic; and (7) Limited - coverage for non-qualified aliens and certain qualified aliens.

⁴ 130 CMR 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(K). (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.

The appellant argued that she is eligible for MassHealth Standard under the Pickle amendment. Eligibility for MassHealth Standard under the Pickle amendment requires a person who, although originally eligible for SSI and Medicaid benefits after April 1977, lost that eligibility as a result of increases in countable income due to COLA adjustments to that income. The appellant is a former SSI recipient who is currently receiving RSDI. This requires MassHealth to compare the appellant's income as of the day she was no longer eligible for SSI (\$1,806.00, called the "frozen amount") to the current 2025 RSDI payment standards for a disabled individual (\$1,081.39⁵). Since the appellant's "frozen" amount of \$1,806.00 exceeds the current SSI standard for a disabled individual of \$1,081.39 the appellant is ineligible for "Pickle" status.⁶

The appellant requested MassHealth Standard benefits pending the appeal of the MassHealth action. To receive aid pending during an appeal an individual must submit a request for a hearing within ten days of MassHealth mailing of the notice of the appealable action, or before the implementation date of the appealable action. In this instance, the appellant appealed the action on March 28, 2025, which is not within 10 days of the March 05, 2025 notice, or before the implementation date of the appealable action (March 19, 2025). Thus, the appellant was not eligible for aid pending the decision.⁷

⁵ In Massachusetts, the SSI payment standard of \$1,081.39 corresponds to the total maximum monthly benefit for a disabled child who is living with their parent(s) where other forms of assistance like TAFDC, EAEDC, or SSI are not being received. This total benefit is a combination of: Federal Benefit: \$967.00 and the State Supplement: \$114.39.

⁶ 130 CMR 519.003: Pickle Amendment Cases (A) Eligibility Requirements. Under the Pickle Amendment, former SSI recipients whose income exceeds 100% of the federal poverty level are eligible for MassHealth Standard provided they (1) or their spouse or both are receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits; (2) were eligible for and received SSI benefits after April 1977; **(3) would be currently eligible for SSI, in accordance with SSI payment standards at 130 CMR 519.003(B), if the incremental amount of RSDI cost-of-living increases paid to them since the last month subsequent to April 1977, for which they were both eligible for and receiving SSI and entitled to (but not necessarily receiving) RSDI were deducted from the current amount of RSDI benefits.** Cost-of-living increases referred to in 130 CMR 519.003 include increases received by the applicant or member or by the spouse. The spouse need not be otherwise eligible for SSI; and (4) have countable assets that are \$2,000 or less for an individual, and \$3,000 or less for a married couple. (B) SSI Payment Standards. The RSDI amount, as described in 130 CMR 519.003(A)(3), and any other countable-income amount, as defined in 130 CMR 520.009: Countable-income Amount, of the individual or couple is compared to the SSI payment standards to determine Pickle eligibility. Each calendar year, the SSI Payment Standards shall be made available on MassHealth's website.

⁷ 130 CMR 610.036: Continuation of Benefits Pending Appeal (A) **When the appealable action involves the reduction, suspension, termination, or restriction of assistance, such assistance will be continued until BOH decides the appeal or, where applicable, the rehearing decision is rendered if BOH receives the initial request for the fair hearing before the implementation date of the appealable action. If such appealable action was implemented before a timely request for a hearing, such assistance will be reinstated if BOH receives the request for the fair hearing within ten days of the mailing of the notice of the appealable action.** If the hearing officer's decision is adverse to the appellant, the appealable action will be implemented immediately, except as provided in 130 CMR 610.091(D). (B) When a change affecting the member's assistance occurs while the hearing decision is pending, the MassHealth agency will take appropriate action to implement the subsequent change affecting assistance, subject to the advance notice requirements and the right to assistance pending a hearing decision. (C) Assistance pending a hearing will not be granted if the MassHealth agency has granted assistance on a presumption of eligibility and subsequently determines that the member is ineligible, and such determination is the subject of a hearing request. (D) Assistance continued pending an appeal in accordance with 130 CMR 610.036(A) is subject to recoupment. (E) The provisions of 130 CMR 610.036(A) and (B), regarding assistance

Lastly, the appellant argued that she requires MassHealth Standard benefits as her current physician will not accept CommonHealth because the MassHealth physician reimbursement is too low. The appellant's argument pertains to a billing issue. Billing issues do not constitute proper grounds for appeal, and this the hearing officer does not have jurisdiction over this issue.⁸

MassHealth has properly determined the appellant is ineligible for MassHealth Standard and eligible for MassHealth CommonHealth and this appeal is denied.

Order for MassHealth

None, other than to adjust the appellant's MassHealth CommonHealth premium as discussed at the hearing (\$15.00 per month beginning April 2025).

pending a hearing decision, will not apply to assistance requiring prior authorization where such assistance terminates as the result of the expiration of the specified, finite authorization period, and the member's provider has failed to timely submit a new prior authorization request.

⁸ 130 CMR 610.032: Grounds for Appeal (A) Applicants and members have a right to request a fair hearing for any of the following reasons: (1) denial of an application or request for assistance, or the right to apply or reapply for such assistance; (2) the failure of the MassHealth agency to give timely notice of action on an application for assistance in accordance with the requirements of M.G.L. c. 118E, § 21; (3) any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance; (4) MassHealth agency actions to recover payments of benefits to which the member was not entitled at the time the benefit was received; (5) individual MassHealth agency determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations); (6) coercive or otherwise improper conduct as defined in 130 CMR 610.033 on the part of any MassHealth agency employee directly involved in the applicant's or member's case; (7) any condition of eligibility imposed by the MassHealth agency for assistance or receipt of assistance that is not authorized by federal or state law or regulations; (8) the failure of the MassHealth agency to act upon a request for assistance within the time limits required by MassHealth agency regulations; (9) the MassHealth agency's determination that the member is subject to the provisions of 130 CMR 508.000; (10) the MassHealth agency's denial of an out-of-area provider under 130 CMR 508.002(F); (11) the MassHealth agency's disenrollment of a member from a managed-care provider under 130 CMR 508.002(G) or (E); (12) the MassHealth agency's determination to enroll a member in the Controlled Substance Management Program under the provisions of 130 CMR 406.442; (13) the MassHealth agency's determination of eligibility for low-income subsidies under Medicare Part D, as set forth in the Medicare Prescription Drug and Improvement and Modernization Act of 2003; and (14) the MassHealth agency's determination on behalf of the Health Connector as set forth in 956 CMR 3.17.

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Springfield MEC