

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part/ Denied in part	Appeal Number:	2506392
Decision Date:	06/20/2025	Hearing Date:	06/04/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearances for MassHealth:


Regina Huynh, Quincy 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

Appeal Decision:	Approved in part/ Denied in part	Issue:	Community Eligibility-Over 65- Income
Decision Date:	06/20/2025	Hearing Date:	06/04/2025
MassHealth's Reps.:	Regina Huynh Carmen Fabery	Appellant's Rep.:	
Hearing Location:	Remote	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

Through a notice dated March 3, 2025, MassHealth determined that the Appellant is eligible for CommonHealth coverage starting on September 17, 2024 with a premium due (130 CMR 519.012 and Exhibit 1). Appellant filed this appeal in a timely manner on April 22, 2025 (130 CMR 610.015(B) and Exhibit 2). A determination of the scope of assistance and a premium amount due are valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that Appellant is eligible for CommonHealth coverage starting on September 17, 2024 with a premium due.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, 519.012, in determining that Appellant is eligible for CommonHealth coverage starting on September 17, 2024 with a premium due.

Summary of Evidence

The MassHealth representative testified that Appellant is a household size of one working disabled individual over the age of 65. By notice dated March 3, 2025, Appellant was approved for CommonHealth coverage effective September 17, 2024. MassHealth testified that Appellant's disability onset date is October 1, 2023. Appellant's income totals \$3,308 per month, with \$40 from employment, \$1,116 Social Security, and a federal veteran pension totaling \$2,242. MassHealth testified that Appellant's income exceeds 100% of the federal poverty level, \$1,305 a month, and is too high for Standard coverage, and exceeds 225% of the federal poverty level, \$2,935 a month, and results in ineligibility for a Medicare Savings Program. The Premium Billing representative testified that a premium of \$88 was calculated for March 2025, and for April and May 2025 a premium of \$57.20 was due. Appellant has not paid the premiums due, and on May 27, 2024, a non-payment administrative closure was placed on the case set to take effect June 10, 2025. MassHealth reviewed Appellant's income that resulted in the higher premium for March 2025. The March 2025 premium was calculated to include Appellant's second veteran pension of \$508.05 which ended in February 2025.

Appellant verified that MassHealth records correctly reflect his income including \$40 per month for assisting a disabled friend. Appellant testified to his disabling conditions and the impacts of paying \$185 for a Medicare premium and \$57.20 in CommonHealth premiums in addition to increases in rent and food expenses. Appellant added that increases in his income are offset by the increased costs of paying for health insurance and limit his resources.

The hearing record was reopened on June 6, 2025 for MassHealth to confirm whether Appellant's veteran pension is non-taxable income. MassHealth submitted a response confirming that Appellant's \$2,242 veteran pension is non-taxable income but is countable unearned income for MassHealth eligibility and premium calculations under 130 CMR 520.009 (Exhibit 5). The Premium Billing representative also indicated that Appellant had contacted MassHealth to pay the premium amounts at issue.

Findings of Fact

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

1. Appellant is a household size of one working disabled individual over the age of 65.
2. By notice dated March 3, 2025, Appellant was approved for CommonHealth coverage effective September 17, 2024.
3. Appellant's disability onset date is October 1, 2023.
4. Appellant's income totals \$3,398 per month, with \$40 from employment, \$1,116 Social

Security, and a veteran pension totaling \$2,242.

5. Appellant's \$2,242 veteran pension is non-taxable.
6. Appellant's second veteran pension of \$508.05 ended in February 2025.
7. 100% of the federal poverty level is \$1,305.
8. 135% of the federal poverty level is \$1761.
9. 150% of the federal poverty level is \$1,957.
10. 225% of the federal poverty level is \$2,935.
11. A premium of \$88 was calculated for March 2025 based on Appellant's higher income in February 2025. For April and May 2025, a premium of \$57.20 was calculated.
12. MassHealth does not contribute to the cost of Appellant's health insurance.
13. Appellant did not pay the premiums due, and on May 27, 2024 a non-payment administrative closure was placed on the case set to take effect June 10, 2025.

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.¹
(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).²

¹ 130 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

² 130 CMR 505.004:

(A) Overview.

...

(2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): *MassHealth CommonHealth*.

(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*.

....

(N) Extended CommonHealth Coverage. MassHealth CommonHealth members (described in 130 CMR

....

(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.*
(Emphasis added)

130 CMR 519.012

506.002: Household Composition

....

(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.
(emphasis added)

(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

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.

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).³

(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 and CMSP premium 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). 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), \$1,957, as provided in 130 CMR 506.011.

Pursuant to 130 CMR 519.012(D) Medicare Premium Payment:

³ MassHealth allows the following deductions from countable income when determining MAGI: educator expenses; reservist/performance artist/fee-based government official expenses; health savings account; moving expenses; self-employment tax; self-employment retirement account; penalty on early withdrawal of savings; alimony paid to a former spouse; individual retirement account (IRA); student loan interest; and higher education tuition and fees. 130 CMR 506.003(D).

(1) MassHealth also pays the cost of the monthly Medicare Part B premium through the Qualifying Individual program under 130 CMR 519.011(B) on behalf of members who meet the requirements of 130 CMR 505.004: *MassHealth CommonHealth* and who have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 135% of the FPL. (emphasis added)

(2) The coverage described in 130 CMR 505.004(L)(1) begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth.

Appellant is a household size of one working disabled individual who receives monthly Social Security income of \$1,116, a non-taxable federal veteran pension of \$2,242, and \$40 employment income for assisting a disabled friend. MassHealth identified Appellant's veteran pension as non-taxable and correctly counted the veteran pension as unearned income pursuant to 130 CMR 520.009, in determining that Appellant is not eligible for MassHealth Standard for persons age 65 and older (130 CMR 519.005).⁴ MassHealth also correctly determined that Appellant is eligible for CommonHealth as a working disabled adult (130 CMR 519.012(A)). However, 130 CMR 519.012(C) directs that calculating 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*, and states that 130 CMR 520.000: *MassHealth: Financial Eligibility* does not apply. Regulations at 130 CMR 506.000 include requirements at 130 CMR 506.004(B) and specifically characterize as non-countable, federal veteran benefits that are not taxable in accordance with IRS rules.⁵ Therefore, in calculating financial eligibility for CommonHealth,

⁴ See 130 CMR 520.009(D) Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. Unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, **federal veterans' benefits**, rental income, interest, and dividend income. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: *MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB))* or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;
- (3) for rental income: a written statement from the tenant or a copy of the lease; or
- (4) other reliable evidence.

⁵ See 130 CMR 506.004: Noncountable Household Income: Because of state or federal law the following types of income are noncountable in the determination of eligibility for individuals described at 130 CMR 506.002. Changes to state or federal law may affect whether the following remains noncountable:

- ...
- (B) **federal veteran benefits that are not taxable in accordance with IRS rules;**

MassHealth incorrectly applied 130 CMR 520.009 to include as countable income Appellant's non-taxable federal veteran benefits for purposes of calculating CommonHealth financial eligibility. Pursuant to regulations at 130 CMR 506.004, Appellant's \$3,398 total income is therefore reduced by the \$2,242 non-taxable veteran pension amount and reduces income to \$1,156, which is further reduced by \$65.25⁶ to equal \$1,090.75 MAGI income, which is less than 150% of the federal poverty level, \$1,957. Therefore, the correct CommonHealth premium for a working disabled CommonHealth member with income below 150% of the federal poverty level is \$0.⁷ Further,

...

⁶ Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine the eligibility of the individual under the coverage type with the highest income standard (130 CMR 506.007(A)). Here, 5% of \$1,305 is \$65.25.

⁷ (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.

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

(c) The supplemental premium formula for young adults, adults, and children with household income above 300% of the FPL is provided as follows. A lower supplemental premium is charged to members who have health insurance to which the MassHealth agency does not contribute. Members receiving a premium assistance payment from the MassHealth agency are not eligible for the supplemental premium rate.

CommonHealth Supplemental Premium Formula	
% of Federal Poverty Level (FPL)	Monthly Premium Cost
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 1000%	80% of full premium
Above 1000%	85% of full premium

Appellant is enrolled in Medicare and his \$1,090.75 MAGI income calculated under 130 CMR 506.000 et seq. for CommonHealth financial eligibility purposes as directed at 130 CMR 519.012(C), does not exceed 135% of the federal poverty level, \$1,761. Therefore, Appellant is eligible for payment of the cost of the monthly Medicare Part B premium through the Qualifying Individual program under 130 CMR 519.011(B). (130 CMR 519.012(D)).

The appeal is APPROVED in that (1) Appellant's \$2,242 non-taxable veteran pension is non-countable income in the calculation of CommonHealth financial eligibility; (2) Appellant is eligible for CommonHealth with a \$0 premium; and (3) Appellant is eligible for payment of the cost of the monthly Medicare Part B premium through the Qualifying Individual program under 130 CMR 519.011(B), pursuant to 130 CMR 519.012(D). The appeal is DENIED in that MassHealth correctly determined that Appellant is not financially eligible for MassHealth Standard.

Order for MassHealth

Remove administrative closings and do not terminate coverage effective June 10, 2025.⁸ Adjust the premium amounts due for March 2025, April 2025, May 2025 and June 2025 to \$0, and reimburse Appellant for any premiums paid for March 2025, April 2025, May 2025, and June 2025. Calculate a \$0 premium for July 2025 and forward until the next redetermination is due. Enroll Appellant in the Qualifying Individual program and begin payment of the cost of the monthly Medicare Part B premium pursuant to 130 CMR 519.012(D)(1) and 505.004(L)(1). The coverage described in 130 CMR 505.004(L)(1) begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth. (130 CMR 519.012(D)(2); 505.004(L)(2)).

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

⁸ There is no evidence in the hearing record that MassHealth issued a notice of the June 10, 2025 termination date as required at 130 CMR 506.011(D).

on the first page of this decision.

Thomas J. Goode
Hearing Officer
Board of Hearings

Maximus Premium Billing: Attn: Carmen Fabery
MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th
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