

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2507570
Decision Date:	8/5/2025	Hearing Date:	6/3/2025
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Katie Burgess, Taunton 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:	Denied	Issue:	Community eligibility, under 65, income
Decision Date:	8/5/2025	Hearing Date:	6/3/2025
MassHealth's Rep.:	Katie Burgess	Appellant's Rep.:	Pro se
Hearing Location:	Taunton (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

By notice dated May 6, 2025, MassHealth notified Appellant that her benefit would end effective May 20, 2025. Exhibit 1. Appellant filed this appeal in a timely manner on May 14, 2025 and was eligible to keep the prior benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth notified Appellant that her CommonHealth benefit would end effective May 20, 2025.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant no longer qualified for payment of her Medicare premiums.

Summary of Evidence

On May 6, 2025, MassHealth issued a notice terminating Appellant's benefit because her income is too high. Exhibit 1. The notice does not specify the benefit that was ending. An MMIS sheet shows that Appellant had MassHealth CommonHealth beginning August 11, 2024. Exhibit 5. Prior to that, Appellant had MassHealth Standard plus Medicare coverage (previously referred to as "Buy-In" benefits, now referred to as Medicare Savings Program, or MSP) from August 1, 2023 through September 15, 2024. *Id.* In late 2024, MassHealth maintained Buy-In/MSP benefits for CommonHealth members whose income exceeded 135% of the federal poverty level (FPL) pursuant to a December 31, 2024 memorandum issued by the Centers for Medicare & Medicaid Services to MassHealth.

The MassHealth representative appeared by phone and testified as follows. Appellant, her spouse, and her two minor children live together. Appellant and her spouse file taxes separately. On or about May 12, 2025, Appellant submitted four paystubs for her spouse who is paid bi-weekly. The gross income of each paystub totaled \$3,333; \$3,262; \$3,276, and \$3,066. MassHealth averaged these numbers and calculated that Appellant's spouse's average monthly income is \$7,008 and average annual income is \$84,096. Appellant's disability income is \$23,814 annually. The combined income is \$107,910. Appellant and her minor child were determined eligible for MassHealth CommonHealth due to disability with a monthly premium of \$124.80.¹ However, it is not clear whether the May 6, 2025 notice was terminating CommonHealth or Appellant's enrollment in Buy-In, or what the basis would be for terminating CommonHealth as there is no income threshold for that benefit.

Appellant testified that she appealed the May 6, 2025 notice and also seeks reinstatement of her Medicare Part B reimbursement. MassHealth representative testified that for purposes of determining eligibility for a Medicare Savings Program (MSP) plan, Appellant's income is 399.99% of the federal poverty level (FPL). To qualify for an MSP and have MassHealth cover Medicare Part B premiums, Appellant's income would have to be below 225% of the FPL. The MassHealth representative testified that determining the household composition based on the circumstances is complicated, as Appellant and her spouse are married filed separately. MassHealth follows different rules for determining household composition depending on family size, tax filing status, and disability.

Appellant testified that while on paper her family's income seems high, it is barely enough to survive after necessary expenses such as gas, electricity, phone, rent, and medical expenses stemming from her and her child's disabilities. Appellant testified that her family had to take a loan against her spouse's 401K plan to buy a car. This lack of consideration of necessities, not luxuries, in MassHealth's eligibility determination is frustrating. Appellant testified that having to pay \$124.80 for MassHealth and \$185 for Medicare every month will cause an extreme financial burden on her

¹ After the hearing, MassHealth provided notices dated July 4, 2025 confirming Appellant and her child's CommonHealth eligibility. Exhibit 5. These notices list the income at 402.22% of the federal poverty level (FPL) for a Disabled Adult Household of 3 and sets the monthly premium at \$141.40 per month. Appellant may request another fair hearing to contest the July 4, 2025 notice within 60 months of having received it.

family. Appellant's spouse has private insurance, which at one point was over \$800 per month without even considering copays and deductibles.

Appellant testified that she had \$370 deducted from her June disability check for payment of the May and June 2025 Medicare Part B premium. This came without warning and Appellant had to make dozens of phone calls and was given the run-around without a straight answer.

Appellant testified that her spouse's income will be changing, as he has to take a medical leave in late July and is applying to receive paid family medical leave (PFML). The MassHealth representative recommended that Appellant call when the income changes, as it will impact eligibility. Appellant testified that she was not aware if she was eligible for Premium Assistance or hardship.

Findings of Fact

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

1. Appellant is under 65.
2. Appellant is disabled and receives Medicare.
3. Appellant is married and files taxes separately from her spouse. Appellant, her spouse, and her two minor children live together.
4. Appellant's annual income is \$23,814 from Social Security.
5. Appellant's spouse has average monthly income of \$7,008 and average annual income of \$84,096.
6. In 2025, 100% of the FPL for a household of two is \$1,763 monthly and \$21,156 annually; 225% of the FPL is \$47,601 annually.
7. In 2025, 100% of the FPL for a household of three is \$2,221 monthly and \$26,652 annually; 225% of the FPL is \$59,967 annually.
8. In 2025, 100% of the FPL for a household of four is \$2,680 monthly and \$32,160 annually; 225% of the FPL is \$72,360 annually.

Analysis and Conclusions of Law

At issue here is MassHealth's determination that Appellant no longer qualifies for coverage of her Medicare premium.

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) MassHealth Standard – for people who are pregnant, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (6) MassHealth Medicare Savings Programs – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(A) Earned Income.

- (1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or

allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S. Individual Tax Return.

(2) Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses, for the amount and populations allowed under federal law;
- (5) one-half self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);
- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and
- (12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law

115-97 for as long as those deductions are in effect under federal law.

In addition to countable income, financial eligibility includes a determination of household size. 130 CMR 506.001(A). MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways: the MassHealth Modified Adjusted Gross Income (MAGI) Household Composition and MassHealth Disabled Adult Household. 130 CMR 506.002(A).

For a taxpayer not claimed as a tax dependent, the MAGI household consists of:

- (a) the taxpayer, including their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer's spouse, if living with them regardless of filing status;
- (c) all persons the taxpayer expects to claim as tax dependents; and
- (d) if any individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

130 CMR 506.002(B)(1).

The MassHealth Disabled Adult Household composition rules determine member eligibility for:

- (a) MassHealth Standard, as described in 130 CMR 505.002(E): *Disabled Adults*;
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(B) through (E);

130 CMR 506.002(A)(2)(a) and (b). The MassHealth Adult Disabled 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).

As a disabled adult whose income is above 133% of the FPL, Appellant is eligible for MassHealth CommonHealth. 130 CMR 505.004(C). According to 130 CMR 505.004(I), individuals eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2).

Additionally, MassHealth will cover a CommonHealth member's Medicare premium if their income is at or below 135% of the FPL. 130 CMR 505.004(L)(1), 130 CMR 519.012(D)(1). An individual whose income is below 190% of the FPL qualifies for an MSP for Qualified Medicare Beneficiaries (QMB) and coverage of Medicare Part A and B premiums. 130 CMR 519.010. An individual whose income is between 190% and 210% of the FPL qualifies for an MSP for Specified Low Income Medicare Beneficiaries (SLMB) and payment of the Medicare Part B Premium. 130 CMR 519.011(A). An individual whose income is between 210% and 225% is eligible for an MSP for Qualifying Individuals (QI) which will cover the Part B premium. 130 CMR 519.011(B).

Appellant's household income of \$107,910 exceeds 225% of the FPL regardless of the household composition for this family of four. Accordingly, MassHealth's determination that Appellant does not qualify for an MSP plan was not made in error and this appeal is denied.

Appellant is encouraged to reach out to Premium Assistance at 888-291-4464 to explore whether she would qualify for assistance. Appellant can also apply for a Premium Billing Hardship Waiver (available online at www.mass.gov/doc/application-for-waiver-or-reduction-of-masshealth-premium-englishspanish/download) to see if she would qualify.

Order for MassHealth

Remove aid pending.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

