

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied-in-part;
Dismissed-in-part

Appeal Number: 2155441

Decision Date: 10/13/2021

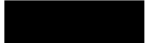
Hearing Date: 08/24/2021

Hearing Officer: Casey Groff

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Carrie McKinnon of the Tewksbury MEC

Interpreter:



*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-in-part; Dismissed-in-part	Issue:	Under 65 Eligibility; Income
Decision Date:	10/13/2021	Hearing Date:	08/24/2021
MassHealth's Rep.:	Carrie McKinnon	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Telephonic		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through four notices dated June 7, 2021, MassHealth informed Appellant that her MassHealth benefits would end on June 21, 2021, and that coverage for her three minor children would be downgraded from Family Assistance to Children's Medical Security Plan (CMSP), because the reported household income exceeded MassHealth program limits. See Exhibits 2, 4, 5, and 7; 130 CMR 506.007(B). On July 16, 2021, Appellant appealed the notices on behalf of herself and her children. See Exhibits 1, 3, 5, and 7; 130 CMR 610.015(B). Denial or reduction of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth determined that Appellant's household income exceeded program limits and, on that basis, denied Appellant's request for MassHealth coverage and downgraded her three children from MassHealth Family Assistance Benefits to CMSP.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's household income exceeded program limits to qualify for MassHealth and for her children to maintain Family Assistance benefits.

Summary of Evidence

A MassHealth representative appeared at the hearing by telephone and testified as follows: On June 4, 2021, Appellant completed an online MassHealth renewal application. On the renewal, Appellant reported that she and her husband are both self-employed earning \$2,400 per month and \$4,000 per month, respectively, for a total household income is \$6,400.00 per month. Appellant lives with her husband and their three minor children, putting them in a household of five (5). A combined gross income of \$6,400.00 per month for a family of five puts them at 242.42 percent of the federal poverty level (FPL). To qualify for MassHealth, individuals need to have a household income of 133% of the FPL or less. On June 7, 2021 - after processing the renewal information - MassHealth notified Appellant that her income was too high to qualify for MassHealth and that her coverage would end on June 21, 2021. See Exh. 2. The MassHealth representative clarified that the notice was misleading insofar as it stated her coverage was “ending.” Appellant has at all relevant times had partial health safety net as her MassHealth Limited coverage ended in 2019. Nevertheless, the notice correctly informed Appellant that she did not qualify for MassHealth based on the reported income.

Additionally, MassHealth sent three other letters, also dated June 7, 2021, informing Appellant that coverage for her three children would be downgraded from Family Assistance to Children’s Medical Security Plan (CMSP) effective July 31, 2021 due to excess income.¹ See Exhs. 4; 5, p. 2; and Exh. 7, p. 3. The MassHealth representative testified that the “downgrades” to the children’s benefits did not take effect due to a MassHealth “override” which protects members’ coverage during the COVID-19 public health emergency. Accordingly, MassHealth issued subsequent notices – also dated June 7th – to each of Appellant’s three children, indicating their benefits would be “upgraded” back to Family Assistance with a monthly premium of \$60.² See Exhs. 6 and 8. Thus, the children’s coverage was never actually downgraded.

Finally, the MassHealth representative testified that Appellant’s case is currently pending verification of income. The representative testified that MassHealth received her and husband’s jointly filed tax return; however still needed her W-2 for employment she reported in her tax filings. In addition, MassHealth would need verification of Appellant’s self-employment (e.g. profit and loss statement) – which was not listed in the tax return. Following the June 7th notices, MassHealth issued “requests for information” specifying what verifications were still needed. Appellant is likely eligible for a subsidized plan through the Health Connector; however, she must first provide the requested verification.

Appellant appeared at the hearing via telephone and testified through a Portuguese interpreter. Appellant testified that she sent the requested information multiple times, including to the Board of Hearings, which was submitted into evidence as Exh. 9. During the hearing it was noted that only

¹ Although not discussed at hearing, the notices indicate that MassHealth calculated the household income at 340.82% of the FPL, which is inconsistent with the subsequent “upgrade” notices (see footnote below), as well as MassHealth’s testimony at hearing, that their household income was at 242.42 percent of the FPL.

² The subsequent “upgrade” notices correctly reflect the household income at 242.42 percent, which may also have been a basis for rescinding the prior “downgrade” notices. Additionally, the notices inform Appellant that the Family Assistance coverage would be for a limited time pending receipt of requested verification of financial information.

the profit and loss for her husband's self-employment was submitted, not the employment information needed for Appellant. Appellant did not dispute the household income figure she reported in the online renewal and which MassHealth used in making the preliminary eligibility determinations at issue in this appeal. Appellant argued, however, that she should still be entitled to MassHealth coverage because she cannot pay for health care costs in addition to her family's living expenses. Appellant did not take issue with her children's coverage as they maintained their Family Assistance coverage.

Findings of Fact

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

1. On June 4, 2021, Appellant completed an online MassHealth renewal application.
2. Appellant lives with her husband and their three minor children, putting them in a household of five (5).
3. Appellant had not received MassHealth benefits since 2019 when she was enrolled in MassHealth Limited and has since been on partial health safety net.
4. At the time of the renewal, Appellant's children were receiving MassHealth Family Assistance benefits.
5. On the renewal, Appellant reported that she and her husband are both self-employed earning \$2,400 per month and \$4,000 per month, respectively, for a total household income is \$6,400.00 per month.
6. A combined gross income of \$6,400.00 per month for a family of five is 242.42 percent of the FPL.
7. On June 7, 2021 - after processing the renewal information - MassHealth notified Appellant that her income was too high for her to qualify for MassHealth and that her coverage would end on June 21, 2021.
8. MassHealth acknowledged that the notice was misleading insofar as it stated her coverage was "ending," since she was not on MassHealth at that time; however, affirmed its position that Appellant's income exceeded program limits to qualify for MassHealth.
9. Also on June 7, 2021, MassHealth notified Appellant that coverage for her three children would be downgraded from Family Assistance to Children's Medical Security Plan (CMSP) effective July 31, 2021 due to excess income.
10. The "downgrades" to the children's benefits did not take effect due to a MassHealth COVID-19 protection "override;" and through subsequent notices, also dated June 7th,

MassHealth informed Appellant that her children's benefits would be "upgraded" back to Family Assistance with a monthly premium of \$60.

11. Appellant's children did not have a gap in their Family Assistance coverage.
12. Appellant did not dispute the reported household income at the hearing.

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly determined that Appellant's reported gross household income exceeded program limits to qualify for MassHealth benefits. The MassHealth coverage types are set forth at 130 CMR 505.001(A), as follows:

- (1) Standard for pregnant women, 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 members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) CommonHealth for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) Family Assistance for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) Small Business Employee Premium Assistance for adults or young adults who
 - (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
 - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
 - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) Limited for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) Senior Buy-in and Buy-in for certain Medicare beneficiaries.

The income limit for MassHealth Limited – which Appellant last qualified for in 2019 - is 133% of

the federal poverty level (FPL).³ See 130 CMR § 505.006(B)(1)(4). For a household of five, that limit is \$3,441 per month. See “2021 MassHealth Income Standards & Federal Poverty Guidelines.” Appellant does not dispute that she and her husband have a combined gross household income of \$6,400 per month, as they reported to MassHealth when completing their online renewal. Using the information provided, MassHealth correctly determined that Appellant’s household income exceeded 133% of the FPL and therefore, appropriately notified her that she did not qualify for MassHealth benefits. Appellant may, however, qualify for a subsidized Health Connector Plan once her income can be verified upon receipt of requested documentation. Appellant did not meet her burden in proving that MassHealth erred in issuing her June 7, 2021 notice. For these reasons, the appeal is DENIED-in-part.

The appeal is DISMISSED-in-part as it pertains to the three June 7, 2021 notices informing Appellant that her children’s Family Assistance coverage would be downgraded to CMSP due to excess income. As noted at hearing, MassHealth effectively rescinded this decision by upgrading their coverage back to Family Assistance with no gaps, thereby resolving the appeal issue.⁴

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.

³ For Limited, this percentage applies to individuals aged 21 through 64, which encompasses Appellant. It is also noted that the income limits for MassHealth Standard and MassHealth CarePlus are also 133% of the FPL. Thus, even if she met the categorical requirements for these coverage types, she would not qualify due to income.

⁴ Continued coverage, however, will be dependent on Appellant’s compliance with submitting requested outstanding verifications as identified in “requests for information.” Appellant will have new appeal rights to any subsequent actions MassHealth may take concerning their continued eligibility.

Casey Groff
Hearing Officer
Board of Hearings

cc: Sylvia Tiar, Tewksbury MassHealth Enrollment Center