

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2177433
Decision Date:	01/10/2022	Hearing Date:	10/28/2021
Hearing Officer:	Casey Groff	Record Open to:	11/14/2021

Appearance for Appellant:
Pro se (by telephone)

Appearance for MassHealth:
Katherine Begin (by telephone)



*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:	Eligibility; Under 65; Income
Decision Date:	01/10/2022	Hearing Date:	10/28/2021
MassHealth's Rep.:	Katherine Begin	Appellant's Rep.:	<i>Pro se</i>
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 September 21, 2021 MassHealth determined Appellant did not qualify for MassHealth CarePlus benefits because she exceeded program income limits. See Exhibit 1; see also 130 CMR 506.007(B) and 130 CMR 502.003. Appellant filed this appeal in a timely manner on September 29, 2021. See Exhibit 2 and 130 CMR 610.015(B). Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth determined Appellant was not eligible for MassHealth benefits because her income exceeded program limits.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant was ineligible for MassHealth CarePlus benefits.

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing via telephone and testified as follows: Appellant is in a household of one (1); she is a tax-filer; and does not claim any “special circumstances” to be categorically eligible for MassHealth Standard. System notes show that Appellant was previously enrolled in CarePlus beginning on August 10, 2020; however, a year later, in August of 2021, Appellant requested a voluntary termination of her MassHealth benefit and switched to a qualifying Health Connector plan, which became effective on August 8, 2021. On September 21, 2021, Appellant requested re-enrollment of CarePlus benefits. At that time, case-updates were made showing that Appellant earned \$600 per month in self-employment income and \$477 per week in unemployment benefits. Based on these figures, Appellant’s combined monthly gross income amounted to \$2,666.84, or a projected yearly income of \$32,000. This puts her at 243.46% of the federal poverty level (FPL). The income standard to qualify for MassHealth CarePlus is 133% of the FPL, which amounts to \$1,428 per month. Based on this information, MassHealth notified Appellant, through a September 21, 2021 letter, that she exceeded income limits to qualify for MassHealth benefits. The notice also informed Appellant that she was temporarily approved for Health Safety Net (HSN) effective August 16, 2021 and eligible for a Health Connector plan. See Exh. 1, p. 1-2. Appellant filed a timely appeal of the September 21, 2021 notice. See Exh. 2.

At hearing and through a record open period, Appellant provided the following testimony and evidence: In August/September of 2020, after becoming unemployed, Appellant enrolled in a MassHealth CarePlus benefit plan. Approximately one year later, on August 14, 2021, after receiving information from the Health Connector, Appellant terminated her CarePlus coverage so that she could enroll in a Health Connector plan. Appellant explained that based on the information provided by the Connector, she was led to believe that she needed to switch plans, and that her new coverage would be identical to her CarePlus coverage. Based on this information, Appellant “forced” MassHealth to have her removed from CarePlus coverage.¹ See Exh. 4, p. 3. Upon enrolling in a Connector plan, which became effective August 8, 2021, Appellant’s health care provider informed her that she was out of network in her new plan. See Exh. 6, p. 2. Appellant explained that she sees multiple providers that are not covered by her new Connector plan, and it is important that she remains with them. She was misled in believing the coverage would be identical and would never have switched plans if she knew that her providers were out of network. On September 21, 2021, Appellant contacted MassHealth and requested to be put back on CarePlus. During the call, MassHealth indicated that she was “excluded” from having her coverage reinstated under the Covid-19 protection and would have to file an appeal of the September 21, 2021 denial notice.

At hearing, the MassHealth representative noted that an October 22, 2021 MassHealth Weekly Update provided the following guidance regarding the continuous eligibility protection during the Covid-19 Public Health Emergency (PHE) period:

¹ During a post-hearing record open period, Appellant provided detailed timeline of her attempts to switch from MassHealth to the Connector, including numerous calls to made to both agencies because the system repeatedly switched her back to CarePlus. Appellant explained that an “exclusion” was placed on her case to allow the system to reflect her Connector coverage. See Exhibit 6.

An individual has CarePlus and reports an increase in income during the PHE. Based on the new information, the individual would now be eligible for ConnectorCare. This individual will NOT lose their MassHealth benefit. They will remain CarePlus through the end of the PHE, unless they voluntarily withdraw from MassHealth and ask to enroll in ConnectorCare, or their circumstances change.

See Exh. 4, p. 3.

Through a post-hearing record open period, MassHealth reviewed Appellant's case to determine whether the Covid-19 PHE protection could be applied to re-instate Appellant's CarePlus coverage, despite having disenrolled from the plan. In its response, MassHealth stated that upon reviewing Appellant's past applications, it was determined that Appellant never originally qualified for MassHealth CarePlus from the onset, and therefore her protection could not be reinstated. See Exh. 4, p. 3. MassHealth submitted a timeline and summary of previous updates made to Appellant's case, including Appellant having reported that she was unemployed with a last day of work on April 10, 2020. Additionally, through a July 2020 phone application Appellant reported unemployment income and self-employment income, qualifying her for a Connector plan. See Exh. 5, p. 2. The evidence further indicates that per a subsequent phone application on August 20, 2020, Appellant reported self-employment income of \$300 per month. On September 21, 2020, MassHealth approved Appellant for CarePlus effective 8/10/20 based on the self-employment income alone. See id.

Appellant responded that she did not begin receiving unemployment until December 2020, and therefore only reported self-employment during an August 20, 2020 phone application. Once she began to receive unemployment, she immediately reported the additional income to MassHealth. Because she was already enrolled in CarePlus she was told her coverage would be protected.

Findings of Fact

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

1. Appellant is in a household of one (1); she is a tax-filer; and does not claim any "special circumstances" to be categorically eligible for MassHealth Standard.
2. On September 21, 2020, MassHealth approved Appellant for CarePlus effective 8/10/20.
3. On August 14, 2021, Appellant received information from the Health Connector leading her to believe she needed to switch to a Connector Plan, and that she would receive coverage identical to what she had in CarePlus.
4. On or around August 14, 2021 Appellant contacted MassHealth to request a termination of her MassHealth CarePlus benefits.

5. Appellant enrolled in a qualifying Health Connector plan, with an effective start date of August 8, 2021.
6. Once enrolled in the new plan, Appellant became aware that her existing health-care providers (that had been covered under CarePlus) were out of network.
7. On September 21, 2021, Appellant contacted MassHealth and requested re-enrollment of CarePlus benefits.
8. During the September 21, 2021 call, Appellant confirmed that she received \$600 per month in self-employment income and \$477 per week in unemployment benefits.
9. Based on these figures, Appellant's combined monthly gross income amounted to \$2,666.84, or a projected yearly income of \$32,000, putting her at 243.46% of the federal poverty level (FPL).
10. Through a September 21, 2021 letter, MassHealth notified Appellant that she exceeded the income limits to qualify for MassHealth benefits.

Analysis and Conclusions of Law

This appeal addresses whether MassHealth correctly determined that Appellant was ineligible 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,² 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

² "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

- (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.

To establish eligibility for MassHealth benefits, applicants must meet both the categorical *and* financial regulatory requirements. Appellant is not categorically eligible for any category of MassHealth aside from MassHealth CarePlus as there is no evidence she is disabled, HIV positive, medically frail, a child, a young adult, a parent or caretaker relative, a noncitizen or immigrant, or a Medicare beneficiary. To be financially eligible for MassHealth CarePlus, the applicant must be at, or below 133% of the federal poverty level (FPL). See 130 CMR 505.008(A)(2)(c). For a household of one, that limit is \$1,428 per month.³ Based on the evidence presented at hearing, Appellant receives self-employment income of \$600 per month⁴ and weekly unemployment of \$477, for a combined gross monthly income of \$2,666.84. This puts her at 243.46% of the FPL. Therefore, Appellant exceeds the income limit to qualify for MassHealth CarePlus.

At hearing, Appellant did not take issue with the reported income used to determine her current FPL. Rather, Appellant argued that she withdrew from her CarePlus coverage based on misleading information and therefore MassHealth should reinstate coverage under the Covid-19 Public Health Emergency (PHE) protections (Covid-19 protections).

The “Covid-19 protection” at issue stems from Congress’s enactment of the Families First Coronavirus Response Act, (FFCRA), and as codified in 42 CFR 433.400 et seq. Under the Act, States are required to maintain coverage for Medicaid beneficiaries who enrolled on or after March 18, 2020 through the end of the declared PHE period, even if a member has a change in circumstances that would otherwise render him/her ineligible for benefits. See FFCRA, § 6008(b), Pub.L. 116-127, (Mar 18, 2020); see also 42 CFR 433.400 et. seq. There are, however, several exceptions to the “continuous enrollment” mandate. Section 6008(b)(3) of the FFCRA states that enrolled individuals “must be treated as eligible for benefits through the end of the PHE, ***unless the individual requests a voluntary termination of eligibility***, or the individual ceases to be a resident of the State.” See id. (emphasis added). Additionally, the protection *only* applies to “validly enrolled” beneficiaries. See 42 CFR 433.400(b). An individual is *not*

³ See 2021 MassHealth Income Standards and Federal Poverty Guidelines (03/21).

⁴ Appellant explained that her self-employment income fluctuates each month, but she agreed that \$600 was an accurate estimate of her average monthly earned income.

considered “validly enrolled” if their initial eligibility determination was based on an erroneous agency determination, incorrect information, or through a determination of “presumptive eligibility.” See id.

The evidence indicates that in August of 2021, Appellant requested termination of her CarePlus to enroll in a Connector Plan. While Appellant credibly testified that her request to switch health plans was premised on misinformation concerning the scope of providers covered under her new plan, such testimony ultimately falls short in demonstrating that MassHealth erred in redetermining her eligibility. The “continuous eligibility” protection afforded under the FFCRA and corresponding federal regulations are limited to existing Medicaid beneficiaries. The protection does not extend to those seeking re-enrollment after having opted out of coverage. Once Appellant switched plans, MassHealth appropriately used existing regulatory income standards to redetermine her eligibility. As discussed above, such regulatory standards render Appellant financially ineligible for MassHealth CarePlus.⁵

For these reasons, the 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.

⁵ Through the record open period, MassHealth took the position that Appellant was not covered under the Covid-19 protection because she was never eligible for CarePlus benefits from the onset. MassHealth correctly points out that States are indeed not mandated to maintain continuous eligibility for members who were not “validly enrolled.” See 42 CFR 433.400(b). However, the evidence is unclear as to whether MassHealth issued Appellant’s 9/21/20 initial approval notice in error, through some additional presumptive eligibility protection, or whether Appellant was indeed financially eligible at that time given that she was not yet receiving unemployment benefits at that time. Regardless, it is unnecessary to address the question of whether Appellant was a “validly enrolled” beneficiary. This decision stands alone on the fact that Appellant lost the “continuous coverage” protection when she disenrolled from CarePlus and was therefore subject to applicable regulatory financial limitations when seeking re-enrollment in the program.

Casey Groff
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957