

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2178163
Decision Date:	11/26/2021	Hearing Date:	11/15/2021
Hearing Officer:	Christine Therrien		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Liz Nickoson, Taunton



*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
Decision Date:	11/26/2021	Hearing Date:	11/15/2021
MassHealth's Rep.:	Liz Nickoson	Appellant's Rep.:	Pro se
Hearing Location:	All parties appeared by phone		

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 10/20/21, MassHealth denied the appellant's application for MassHealth disability benefits because MassHealth determined that the appellant's income exceeds the program limits and the appellant has a one-time deductible of \$7,120 to meet to be eligible for MassHealth CommonHealth (130 CMR 505.002, 130 CMR 506.009, and Exhibit 1). The deductible period is 10/9/21 to 4/10/21 (Exhibit 1). The appellant filed this appeal in a timely manner on 10/25/21 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined the appellant's income exceeds the program limits for MassHealth Standard and calculated a one-time deductible in the amount of \$7,120 for MassHealth CommonHealth eligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002, in determining that appellant's income exceeds the program limits for MassHealth Standard.

Summary of Evidence

The MassHealth representative testified that the appellant is a disabled adult under age 65. The

MassHealth representative testified that the appellant is enrolled in Medicare. The MassHealth representative testified that the appellant has SSDI income of \$1,782 a month which places her at 161.02% of the federal poverty level (FPL), and therefore over income for MassHealth standard. The MassHealth representative testified that the income limit for MassHealth Standard is 133% of the FPL. The MassHealth representative testified that the appellant has a one-time deductible of \$7,120 to meet between 10/9/21 to 4/10/21 to become eligible for MassHealth CommonHealth. The MassHealth representative testified that in lieu of meeting the deductible MassHealth has a working disabled program where the appellant could work for 40-hours a month doing any type of work and get paid at least \$1.

The appellant testified that she has already filed a discrimination lawsuit. The appellant testified that she has a brain injury and her doctor told her not to work. The appellant testified that she cannot afford to pay the deductible. The appellant stated that Social Security told her she could not work, or she would lose her disability benefits and it is illegal for MassHealth to make her work so she can get insurance for \$25. The appellant stated that she did not apply for MassHealth Standard and did not like that the letter stated she applied for disability benefits when all she did was call the Health Connector for insurance.¹

Findings of Fact

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

1. The appellant is a disabled adult under age 65.
2. The appellant is enrolled in Medicare.
3. The appellant has SSDI income of \$1,782 a month which places her at 161.02% of the FPL.
4. The income limit for MassHealth Standard is 133% of the FPL.
5. The appellant has a one-time deductible of \$7,120 to meet between 10/9/21 to 4/10/21 to become eligible for MassHealth CommonHealth.
6. MassHealth has a working disabled program where the appellant could work for 40-hours a month doing any type of work and get paid at least \$1 and become eligible for MassHealth CommonHealth.

Analysis and Conclusions of Law

MassHealth regulations found at 130 CMR 505.000 explain the financial standards and categorical requirements for MassHealth coverage types. The MassHealth coverage types are listed in 130 CMR 505.001(A). As a disabled individual under the age of 65 who is receiving Medicare, there are two

¹ “When you fill out an application online, you’ll find out right away if you qualify for a health plan from the Health Connector or coverage through MassHealth.” <https://www.mahealthconnector.org/help-center/resource-download-center>

coverage types for which the appellant may be eligible: MassHealth Standard and MassHealth CommonHealth. The requirements for each program are as follows:

130 CMR 505.002: MassHealth Standard

...

(E) Disabled Individuals.

(1) Disabled Adults. A disabled adult 21 through 64 years of age is eligible for MassHealth Standard coverage if he or she meets the following requirements:

(a) the individual is permanently and totally disabled as defined in 130 CMR 501.001 Definition of Terms;

(b) **the modified adjusted gross income of the MassHealth Disabled Adult household as described in 130 CMR 506.002(C): MassHealth Disabled Adult Household Composition is less than or equal to 133 % of the federal poverty level (FPL),** or the individual is eligible under section 1634 of the Social Security Act (42 U.S.C. § 1383c) as a disabled adult child or as a disabled widow or widower, or is eligible under the provisions of the *Pickle Amendment* as described at 130 CMR 519.003: *Pickle Amendment Cases*;

(c) the individual is a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and

(d) the individual complies with 130 CMR 505.002(M).

(emphasis added).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. The appellant is categorically eligible for MassHealth benefits because she is a disabled individual. In order to be eligible financially for MassHealth Standard benefits, the appellant's household's monthly modified adjusted gross income must be equal to or less than 133% of the FPL (\$1,428 for a family of one). The appellant does not dispute that she has a gross monthly income of \$1,782. Since the appellant's income exceeds 133% of the FPL, she is not eligible for MassHealth Standard benefits.

The requirements for the MassHealth CommonHealth program are as follows:

130 CMR 505.004 MassHealth CommonHealth

(B) Disabled Working Adults. Disabled working adults must meet the following requirements:

(1) be 21 through 64 years of age (For those 65 years of age and older, see 130 CMR 519.012: *MassHealth CommonHealth*);

(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*;

(4) be a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens*;

(5) be ineligible for MassHealth Standard; and

(6) comply with 130 CMR 505.004(J).

(C) Disabled Adults. Disabled adults must meet the following requirements:

(1) be 21 through 64 years of age;

(2) be permanently and totally disabled, as defined in 130 CMR 501.001: *Definition of Terms*;

(3) be ineligible for MassHealth Standard;

(4) be a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens*;

(5) (a) meet a one-time-only deductible in accordance with 130 CMR 506.009: *The One-Time Deductible*; or (b) have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 200% of the federal poverty level (FPL) and provide verification that they are HIV positive; and

(6) comply with 130 CMR 505.004(J).

Alternatively, the member can pay a one-time deductible, which is calculated based on income minus certain deductions and compared to the MassHealth income standards.

130 CMR 506.009: The One-time Deductible

(D) Calculating the Deductible. The amount of the deductible is determined by comparing the MassHealth Disabled Adult household income as described in 130 CMR 506.003 to the MassHealth Commonwealth Monthly Deductible Income Standards provided in the following chart and multiplying the difference by six.

**THE MASSHEALTH COMMONHEALTH
MONTHLY DEDUCTIBLE INCOME STANDARDS**

**MassHealth Disabled
Adult Household Size**

Income Standards

	542
1	670
2	795
3	911
4	1036
5	1161
6	1286
7	1403
8	1528
9	1653
10	+ 133 for each additional person

130 CMR 506.003: Countable Household Income

(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.

As explained by the MassHealth representative at hearing, the appellant may qualify for MassHealth CommonHealth benefits either by meeting a deductible or becoming a disabled working adult.² In order to qualify as a disabled working adult, the appellant's employer would have to submit a signed letter stating the type of work the appellant is performing, how many hours she works, and how much she gets paid. The appellant would need to work at least 40 hours per month, and the work need not be traditional. There may be a premium associated with MassHealth CommonHealth benefits.

While it is understandable that the appellant is concerned about her monthly bills, her income prevents her from qualifying for MassHealth Standard benefits. She may, however, establish eligibility for MassHealth CommonHealth benefits pursuant to the regulations above.

For the foregoing reasons, the appeal is denied.

² SSDI recipients cannot do what is considered "substantial gainful activity" (SGA) and continue to receive disability benefits. SGA means you are working and making more than \$1,310 per month in 2021. *See* 20 CFR §404.1572.

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.

Christine Therrien
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center.