

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2201295
Decision Date:	4/11/2022	Hearing Date:	March 22, 2022
Hearing Officer:	Brook Padgett		

Appearance for Appellant:

Pro se

Appearance for MassHealth:

Melanie Hebert, Springfield 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:	130 CMR 506.003
Decision Date:	4/11/2022	Hearing Date:	March 22, 2022
MassHealth's Rep.:	M. Hebert	Appellant's Rep.:	Pro se
Hearing Location:	Springfield MEC	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

The appellant received a notice dated January 21, 2022 stating: MassHealth is changing your health benefits from MassHealth Standard to Health Safety Net because of a change in your circumstances. (Exhibit 1). The appellant filed a timely appeal on February 17, 2022. (130 CMR 610.015(B); Exhibit 2). Determinations regarding scope and amount of assistance are valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined the appellant was over the income limit for MassHealth Standard and downgraded her coverage to MassHealth Health Safety Net.

Issue

Did MassHealth correctly determine the appellant's MassHealth eligibility?

Summary of Evidence

MassHealth testified that the appellant is under 65-years-old and is a member of a household size of one. On January 21, 2022, the appellant completed a MassHealth renewal update form indicating she had \$0.00 income. MassHealth performed an income match which determined the appellant had income at 156% of the Federal Poverty Level (FPL).¹ MassHealth stated to qualify for MassHealth Standard benefits, the appellant's gross income must be at or below 133% of the FPL, which for a household of one is \$1,428.00 per month or \$17,136.00 per year. As result, the appellant was determined to be over the income limit to qualify for MassHealth Standard benefits and downgraded to MassHealth Health Safety Net coverage.

The appellant responded that she receives somewhere around \$1,800.00 in Social Security disability benefits; however, she does not receive any taxable income. The appellant stated Social Security Disability Income (SSDI) is not taxable and therefore should not be countable by MassHealth per the MassHealth regulations at 130 CMR 506.003(A). The appellant maintained this same issue has been heard and approved in her favor on two other occasions.

MassHealth responded that MassHealth calculates eligibility based on gross income, not taxable income. 130 CMR 506.003(B)(2) Unearned Income regulation requires MassHealth count Social Security when calculating gross income. MassHealth indicated that despite the outcome of the appeal the appellant will remain on MassHealth Standard until the Commonwealth COVID protection is removed.

Findings of Fact

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

1. The appellant is disabled, under 65-years-old, and lives in a household of one. (Testimony).
2. The income limit for MassHealth Standard benefits is 133% of the FPL, or \$1,428.00 gross monthly for a household of one. (Testimony).
3. The appellant receives SSDI income at 156% of the FPL. (Testimony).
4. On January 21, 2022, MassHealth informed the appellant she was no longer eligible for MassHealth Standard as she was over the income standard. (Exhibit 1).
5. The appellant will remain on MassHealth Standard coverage as she is protected under the Commonwealth's emergency COVID orders. (Testimony).

¹ MassHealth could not state where the income was derived as the match only indicates the percentage of the FPL.

Analysis and Conclusions of Law

The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000 (130 CMR 505.001). The financial eligibility for various MassHealth coverage types is determined by comparing the family group's monthly gross income with the applicable income standards for the specific coverage. (130 CMR 506.007(A)). Generally, eligibility is based on 133% of the federal-poverty level for adults and 200% of the federal-poverty level for children and pregnant women, as well as for adults working for qualified employers and persons who are HIV positive. Children under the age of 19 may establish eligibility for Standard coverage if the gross income of the group is less than or equal to 150% of the federal poverty level. (130 CMR 505.002(C)(2)). Disabled persons with income in excess of these applicable standards may establish eligibility for MassHealth CommonHealth. (130 CMR 506.007(B)).

Countable household income for MassHealth purposes includes earned and unearned income. (130 CMR 506.003). 130 CMR 506.003(B)(2), states unearned Social Security income is countable income. The appellant is receiving SSDI and therefore pursuant to 130 CMR 506.003(B)(2) this income is countable.

MassHealth testified the appellant has income at 156% of the FPL and the appellant has testified she receives approximately \$1,800.00 per month in SSDI. The income limit for MassHealth Standard is 133% of the FPL for a household of one or \$1,428.00 gross per month. As a result, the appellant is over the regulatory income amount to qualify for MassHealth Standard. The appellant argues SSDI income is not taxable and therefore not countable citing 130 CMR 506.003(B)(1). However, while most SSDI benefits are generally not taxed, it is not because the benefit is not taxable but because the income of the majority of SSDI recipients is below the threshold required to pay taxes. Households above the income threshold are subject to taxation of their SSDI benefits. While the regulation does create some confusion regarding this issue, 103 CMR 506.003(B)(2) clarifies any misunderstanding by clearly stating Social Security benefits are countable for MassHealth purposes.

130 CMR 506.003: Countable Household Income

Countable household 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).

(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. (*Emphasis added*).

The appellant is currently over the income limit to qualify for MassHealth Standard benefits and this appeal is denied.

While the appellant is over the income standard for MassHealth Standard eligibility, the appellant will not lose her MassHealth Standard at this time. MassHealth in response to COVID-19 public health national emergency, implemented temporary changes in eligibility-related policies and processes to support the public health efforts to expedite access to necessary health care and maintain health care coverage for both new MassHealth applicants and existing members. MassHealth has indicated it will maintain coverage for individuals who have Medicaid coverage, Children's Medical Security Plan (CMSP), or Health Safety Net (HSN) as of March 18, 2020, and for individuals newly approved during the COVID-19 public health national emergency, and through the end of the month in which such national emergency period ends. These individuals will not lose coverage or have a decrease in benefits during this time period.

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc:

MassHealth representative: Melanie Hebert, Springfield MEC