

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2208945
Decision Date:	2/6/2023	Hearing Date:	12/30/2022
Hearing Officer:	Alexis Demirjian		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Stella Mudanya



*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:	Approved	Issue:	Termination of Coverage
Decision Date:	2/6/2023	Hearing Date:	12/30/2022
MassHealth's Rep.:	Stella Mudanya	Appellant's Rep.:	Pro se
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 October 11, 2022, MassHealth terminated the Appellant's MassHealth benefits because MassHealth determined that the Appellant was not a person in the household. (see 130 CMR 506.002 and Exhibit 3). The Appellant filed this appeal in a timely manner on November 28, 2022. (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal before the Board of Hearings (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the Appellant's coverage.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.002, in determining that the Appellant was not a member of the household and as a result no longer qualified for MassHealth.

Summary of Evidence

The Appellant is [REDACTED] who resides with her parents. Historically her parents have claimed the Appellant as a dependent on their taxes, thus making her a member of their household for MassHealth eligibility determination purposes. In 2021, the Appellant's parents received advice while filing their income taxes that they should no longer include the Appellant as a dependent. The Appellant's parents were unaware that when determining a household for MassHealth purposes that a household is determined by tax filings and not merely by familial relationship or who resides at the same address. The Appellant's father testified that if he knew that his daughter would lose coverage based on their failure to claim her as a dependent, he would not have done so.

MassHealth testified that the notice was generated by the system but was unsure what triggered its issuance. After hearing testimony from the Appellant's father, MassHealth explained that if the Appellant was not claimed on her parents' taxes, the Appellant was no longer considered part of the original applicant's household. Since the Appellant was no longer attached to her parent's application, the Appellant no longer qualified for MassHealth, and her coverage was terminated.

Findings of Fact

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

1. The Appellant is [REDACTED] and resides with her parents. (Testimony)
2. Prior to 2021, the Appellant had been claimed as a dependent on her parents' taxes. (Testimony)
3. The Appellant's MassHealth coverage had been obtained through an application filed by her parents in which she was considered part of the household for MassHealth purposes. (Testimony)
4. Once the parents no longer claimed the Appellant as a dependent on their taxes, the Appellant ceased to be a member of their household for MassHealth eligibility purposes. (Testimony)

Analysis and Conclusions of Law

Pursuant to 130 CMR 506.002 MassHealth determines household composition in two ways.

(A) Determination of Household Composition. MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways.

(1) MassHealth Modified Adjusted Gross Income (MAGI) Household Composition. MassHealth uses the MassHealth MAGI household composition rules to determine member eligibility for the following benefits:

(a) MassHealth Standard, as described in 130 CMR 505.002(B), (C), (D), (F), and (G);

- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(F) and (G);
- (c) MassHealth CarePlus, as described in 130 CMR 505.008: MassHealth CarePlus;
- (d) MassHealth Family Assistance, as described in 130 CMR 505.005(B) through (E);
- (e) MassHealth Limited, as described in 130 CMR 505.006: MassHealth Limited;
- (f) MassHealth Small Business Employee Premium Assistance, as described in 130 CMR 505.009: MassHealth Small Business Employee Premium Assistance; and
- (g) Children's Medical Security Plan (CMSP), as described in 130 CMR 522.004: Children's Medical Security Plan (CMSP)

(B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists of

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

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1, 2., or 3., the household consists of

- 1. the individual;
- 2. the individual's spouse, if living with him or her;
- 3. the taxpayer claiming the individual as a tax dependent;
- 4. any of the taxpayer's tax dependents; and
- 5. if any woman described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals

- 1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the tax payer;
- 2. individuals younger than 19 years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;
- 3. individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent. For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is

the parent with whom the child spends most nights.

- (3) Individuals Who Do Not File a Federal Tax Return and Are Not Claimed as a Tax Dependent on a Federal Tax Return. For an individual who does not expect to file a federal tax return and who does not expect to be claimed as a tax dependent on a federal tax return or when any of the exceptions described at 130 CMR 506.002(B)(2)(b)1., 2., or 3. apply, the household consists of
- (a) the individual;
 - (b) the individual's spouse if living with him or her;
 - (c) the individual's natural, adopted, and stepchildren younger than 19 years old if living with him or her;
 - (d) for individuals younger than 19 years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than 19 years old if living with him or her; and
 - (e) if any woman described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children

Prior to the parents' 2021 tax filing, the Appellant was determined to be a member of a MassHealth household with her parents under 130 CMR 506.002 (B) (2). The MassHealth eligibility determination of whether the Appellant was considered a member of the household changed when her parents no longer claimed her as a dependent.

When the parents ceased to claim the Appellant as a dependent, she ceased to be a member of the MassHealth household. Thus, her eligibility would need to be determined under a separate application and under the rules governing 130 CMR 506.002 (B) (1) or 130 CMR 506.002 (B) (3).

Despite this fact, MassHealth must abide by the guidance issued in Eligibility Operations Memo 22-10, issued August 2022, which provides guidance for maintaining MassHealth coverage though the Federal Public Health Emergency ("FPHE").

EOM 22-10 memorandum states:

MassHealth will continue to maintain coverage for most individuals who had health coverage as of March 18, 2020, and for all individuals newly approved for health coverage during the FPHE, through the end of the month in which the FPHE ends. **These individuals will not lose coverage, except for limited circumstances.**

For example, coverage will end if an individual

- requests termination of eligibility;
- is no longer a resident of Massachusetts; or
- is deceased.

MassHealth is not required to maintain coverage during the FPHE for individuals with time limited HSN, HSN Dental only, or CMSP only, and CHIP children who turn 19. These

members will have benefits reduced or closed based on regular program determination rules.

Members who were protected from coverage loss or downgrade during the FPHE **will not be subject to adverse action on their case after the FPHE ends until they go through a full MassHealth renewal after the FPHE ends.**

Under the eligibility rules the Appellant is no longer a member of her parent's MassHealth household. The memorandum enumerates a small list of circumstances where a member will lose coverage, it does not include the circumstances in this case. Thus, under the protections of the Federal Public Health Emergency, the Appellant's MassHealth coverage should have continued through the end of the Federal Public Health Emergency, which will end on May 11, 2023.

Accordingly, the appeal is APPROVED.

Order for MassHealth

MassHealth shall restore the Appellant's MassHealth benefits retroactively to the date the coverage was terminated and the Appellant shall remain covered through the end of May 2023, unless the Appellant chooses to request termination of coverage before that time. MassHealth may review the Appellant's eligibility beginning April 1, 2023.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Alexis Demirjian
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Jennifer Vitt, Charlestown MassHealth Enrollment Center, 529
Main Street, Suite 1M, Charlestown, MA 02129