

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301534
Decision Date:	3/31/2023	Hearing Date:	03/20/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Julieta Peters, Quincy 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:	Eligibility - Income
Decision Date:	3/31/2023	Hearing Date:	03/20/2023
MassHealth's Rep.:	Julieta Peters	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 February 11, 2023, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant did not meet the income requirements to qualify for benefits (see 130 CMR 506.007(B), 130 CMR 502.003, and Exhibit 1). The appellant filed this appeal in a timely manner on February 24, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002 and 505.008, in determining that the appellant did not meet the necessary standards to qualify for MassHealth benefits?

Summary of Evidence

The MassHealth representative from the Quincy Enrollment Center testified that the appellant is an adult under the age of 65 who is currently undergoing treatment for breast cancer and resides in a household of one. She has taken leave under the United States Family and Medical Leave Act of

1993, 29 U.S.C. § 2601 (FMLA), and the Massachusetts Department of Family and Medical Leave. The appellant is currently receiving insurance coverage with Health New England while she is on leave and submitted recent paystubs showing a weekly income of \$724.61, which would put her at 253.61% of the Federal Poverty Level.¹ The MassHealth rep also indicated that, given the appellant's FMLA leave, it was difficult to calculate her expected income, but estimated it to be at \$25,000.² Because of the appellant's alternative insurance, the MassHealth rep testified that she did not qualify for MassHealth regardless of her being over-income, but she does qualify for Partial Health Safety Net and a plan through the Health Connector, for which she was encouraged to apply as soon as possible.

The appellant testified that she received inaccurate information regarding her employer-sponsored health insurance and, at the time that she submitted her MassHealth application, she believed she was going to be losing her coverage. She did not dispute the income figures offered by the MassHealth representative and was hopeful that the Health Connector will be able to help with copays and premiums.

Findings of Fact

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

1. The appellant was denied MassHealth coverage on February 11, 2023 on the basis that she did not meet the income requirements to qualify for benefits. Testimony and Exhibit 1.
2. The appellant timely appealed MassHealth's termination, indicating that she is undergoing treatment for breast cancer and believed she would be losing her healthcare coverage. Exhibit 2.
3. The appellant is an adult under the age of 65 and resides in a household of one. She has a current weekly income of \$724.61, which is 253.61% of the federal poverty level, and an estimated yearly income of \$25,000, which is somewhere between 150% and 190% of the federal poverty level. Testimony and MassHealth website.
4. The appellant currently has health insurance through her employer. There is no evidence in the record that the coverage is insufficient to meet her needs. Testimony.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and

¹ <https://www.mass.gov/info-details/program-financial-guidelines-for-certain-masshealth-applicants-and-members#2023-masshealth-income-standards-and-federal-poverty-guidelines->

² The MassHealth representative did not testify as to the percentage of the federal poverty level, however based on the guidelines, an income of \$25,000 would put the appellant somewhere between 150% and 190%.

financial standards that must be met to qualify for a particular MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (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.

130 CMR 505.001(A).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. Based on the available options, the relevant coverage types for this appeal are MassHealth Standard and CarePlus.

The Appellant's Eligibility for MassHealth Standard

Individuals who are undergoing treatment for breast or cervical cancer may qualify for MassHealth Standard under relaxed financial requirements if they meet additional categorical requirements, including that they

1. be uninsured; or
2. have insurance that does not provide creditable coverage. An individual is not considered to have creditable coverage when the individual is in a period of exclusion for treatment of breast or cervical cancer, has exhausted the lifetime

limit on all benefits under the plan, including treatment of breast or cervical cancer, or has limited scope coverage or coverage only for specified illness; or
3. be an American Indian or Alaska Native who is provided care through a medical care program of the Indian Health Service or of a tribal organization...

130 CMR 505.002(F)(1)(d).

In this case, although the appellant meets most of the categorical requirements to qualify for MassHealth Standard, there is no evidence in the record that her insurance does not provide creditable coverage. As she bears the burden of proof, the record supports MassHealth's decision to deny the appellant MassHealth Standard benefits.³

The Appellant's Eligibility for MassHealth CarePlus

Since the appellant is an adult between the ages of 21 and 64 and does not qualify for MassHealth Standard, it must next be determined whether she meets the financial requirements for MassHealth CarePlus. To qualify for MassHealth CarePlus, the applicant must, in addition to meeting other categorical criteria, have an income less than or equal to 133% of the federal poverty level. *See* 130 CMR 505.008(A)(2)(c). In determining an applicant's income pursuant to 130 CMR 506.007, MassHealth must first construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

- (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.

Here, the appellant does not dispute that she resides in a household of one.

Next, MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking the countable income, which includes earned income as 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). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

³ Given that the appellant fails to qualify for MassHealth Standard for categorical reasons, no finding will be made regarding the appellant's financial qualifications for that plan.

...Countable 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(C). Income of all the household members forms the basis for establishing an individual's eligibility. A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(K).

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the

MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

Per 130 CMR 506.003(A), countable income includes, in relevant part, “the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.”

Although there was some confusion as to the appellant’s current yearly income, there is no dispute that her income currently exceeds 150% of the federal poverty level. As such, the appellant does not meet the financial requirements to qualify for MassHealth CarePlus. Therefore, the appellant qualifies for neither MassHealth Standard nor CarePlus, and MassHealth did not err in issuing the February 11, 2023 notice. 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171