

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2304350
Decision Date:	08/21/2023	Hearing Date:	06/27/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:  
*Via telephone*  
*Pro se*

Appearance for MassHealth:  
*Via telephone*  
Sunnatra Som



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over-Income
<b>Decision Date:</b>	08/21/2023	<b>Hearing Date:</b>	06/27/2023
<b>MassHealth's Rep.:</b>	Sunnatra Som	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 1 (Remote)	<b>Aid Pending:</b>	Yes

### 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 May 16, 2023, MassHealth informed the Appellant that he does not qualify for MassHealth benefits because it determined that he is over the income limits. (Exhibit 1). The Appellant filed this appeal in a timely manner on May 23, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth informed the Appellant that he does not qualify for MassHealth benefits because he is over the income limits.

### Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over the allowable income limits.

## Summary of Evidence

The MassHealth representative appeared at the hearing telephonically and testified as follows: The Appellant received the May 16, 2023 notice which states that he is no longer eligible for MassHealth CarePlus benefits because his income changed. Specifically, MassHealth received the Appellant's proof of income (long-term disability from the Appellant's place of employment) which is \$ 2,138.33 per month, or \$ 25,659.96 per year. This amount is equivalent to 188.82% of the Federal Poverty Level.<sup>1</sup> To be eligible for MassHealth benefits, you must meet the MassHealth guidelines regarding income limits which is \$ 1616.00 per month or \$ 19,392.00 per year. Currently, the Appellant is receiving aid pending.

The Appellant appeared at the hearing telephonically and testified that while he understands this explanation, he does not understand why he no longer qualifies for MassHealth benefits since his income never changed. The Appellant explained that he was initially receiving a certain amount of money from Paid Family and Medical Leave (PMFL) after sustaining an accident in November of last year. Further, he was also receiving the off-set payment from his employer's insurance. Once his PMFL benefits ended, the Appellant contacted his employer's insurance and began receiving one lump sum. However, the amount of \$ 2138.00 never changed, he is simply receiving it from one party now. Moreover, the Appellant contacted MassHealth and was told that he qualifies for Steward Health Choice and was given a member ID number in or around the end of April or early May. Further, the Appellant received an American Disabilities Act (ADA) packet in the mail which he dropped off to his physician's office on or about May 20, 2023, just prior to leaving for a planned vacation. Upon his return, the Appellant contacted his doctor's office and was informed that his health insurance was being terminated. The Appellant further explained that he contacted MassHealth again and was told that his insurance remains active until June 30, 2023. At that time, the Appellant would have to re-apply for health insurance through the Health Connector. The Appellant testified that he inquired about whether a premium would be charged if he were to obtain insurance through the Health Connector. He explained that at the time he was injured it was during off hours and while he remains on his employer's payroll, he is unable to work because of his injuries sustained in a motor vehicle accident. Further, he was unaware that his private health insurance through his employer was terminated in December of 2022. Therefore, he is unable to pay for a premium because he is unable to work due to his injuries, and unable to receive physical therapy due to his lack of health insurance. The Appellant expressed his frustration with MassHealth and the conflicting information that he has received thus far. Further, the Appellant testified that he initially reported to MassHealth by telephone how much he was receiving in disability payments which is how he originally received a member ID number for Steward Health Choice benefits.

In response to inquiry made at the hearing, the MassHealth representative testified that Steward

---

<sup>1</sup> The May 16, 2023 notice at issue in this appeal states that the Appellant's monthly household income is 170.99% of the Federal Poverty Level. (See, Exhibit 1, p. 3).

Health Choice is a plan within the MassHealth program whereas MassHealth Standard is part of a benefit that is considered for disabled individuals. Thus, if the Appellant is deemed disabled, he would qualify for MassHealth Standard benefits. Conversely, MassHealth Care Plus is for individuals with low income and no disability. Upon further inquiry made to the MassHealth representative pertaining to whether the Appellant would benefit by filling out the pertinent disability documentation that he received via mail, the MassHealth representative testified that while he is unclear of the exact reasoning, it is his understanding that the Appellant is not eligible for disability yet and therefore the Appellant would need to appeal to receive additional information from that department.

Upon inquiry made at the hearing, the Appellant testified that he never received a denial notice pertaining to disability, rather he only received a packet to fill out. The Appellant further testified that he was told by MassHealth that if he cannot work then he should fill out the disabilities packet that was sent to him and to have his doctor fill out the pertinent section and return it to MassHealth. The Appellant reiterated that he gave MassHealth all his information when he initially called to ascertain if he had coverage.

The MassHealth representative clarified that the Appellant was not currently receiving MassHealth Standard benefits, instead he was receiving Care Plus benefits. He explained that when the Appellant initially signed up for Steward Health Choice, MassHealth never received proof of income. Once it did receive verification of the Appellant's income, the May 16, 2023 notice was generated stating that the Appellant is over the income guidelines for Care Plus. The Appellant testified that while he understands the testimony given by the MassHealth representative, he disagrees. The Appellant testified that when he first contacted MassHealth he verbally reported that he was receiving approximately \$ 1300-\$ 1400 monthly, with his employer's insurance covering the remainder (amounting to the \$ 2138 monthly amount). Thus, the amount of his income never changed. The MassHealth representative testified that the Appellant is over the income guidelines for Care Plus but has the option of contacting the Health Connector to obtain health insurance. The Appellant reiterated that the Health Connector charges a monthly premium and questioned how he is currently not receiving health insurance benefits when he has been able to attend his physical therapy/physician appointments as recently as last week. In response, the MassHealth representative testified that the reasoning is due to the Appellant's current appeal which has protected his Care Plus status.

The MassHealth representative reiterated that MassHealth did not receive proof of the Appellant's income prior to May 16, 2023. The Appellant questioned how he could have been approved for Care Plus if MassHealth never received proof of income prior to his approval. The MassHealth representative explained that on or about April 8, 2023, the Appellant signed an affidavit regarding income which was deemed unacceptable proof. However, on May 16, 2023, MassHealth received acceptable proof of the Appellant's income which generated the May 16, 2023 denial notice because the Appellant's income changed. In response, the Appellant explained that he initially sent MassHealth a screenshot of his income because his employer does not send paystubs. He was

told by MassHealth that a screenshot was not acceptable. Next, the Appellant contacted MassHealth again and spoke to a worker who said a letter from his employer's insurance would be deemed as acceptable proof of income. The Appellant received the pertinent letter and submitted it to MassHealth. The Appellant testified that it would be impossible for MassHealth to receive proof of his income on May 16, 2023 and on that same day send out a denial notice. He explained that he has never seen a computer work that fast beforehand.

## Findings of Fact

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

1. The Appellant is between the ages of 21 and 64 and a MassHealth member. (Testimony; Exhibit 3).
2. On or about May 16, 2023, the Appellant was notified that he did not qualify for MassHealth benefits. (Testimony; Exhibit 1).
3. The Appellant timely appealed on May 23, 2023. (Exhibit 2).
4. The Appellant is currently receiving aid pending. (Testimony; Exhibit 3).
5. The Appellant's current monthly income amounts to approximately \$ 2,138.00. (Testimony).

## Analysis and Conclusions of Law

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

In accordance with 130 CMR 505.002(E), a disabled adult 21 through 64 years old or a disabled young adult 19 through 20 years old who does not meet the requirements at 130 CMR 505.002(B)(3)(a)(1) is eligible for MassHealth Standard coverage if they meet 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) **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).

(130 CMR 505.002(E)). (Emphasis added).

Here, the Appellant is an adult between the ages of 21 and 64. However, it is undisputed that the modified adjusted gross income of the Appellant's household exceeds 133% of the Federal Poverty Level (FPL). Since the Appellant is an adult between the ages of 21 and 64 and does not qualify for MassHealth Standard, it must be determined whether he meets the financial requirements for MassHealth Care Plus.

To qualify for MassHealth Care Plus, 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 pertinent 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, it is undisputed that the Appellant resides in a household of one. (See, Exhibit 1, p. 3).

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:

...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.

(130 CMR 506.007).



In accordance with 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.”

(130 CMR 506.003(A)).

Although there was confusion regarding when MassHealth received the Appellant’s proof of income there is no dispute that his income currently exceeds 133% of the Federal Poverty Level (FPL). As such, unfortunately, the Appellant does not meet the financial requirements to qualify for MassHealth Care Plus. Therefore, MassHealth did not err in issuing the May 16, 2023 notice. This appeal is denied.<sup>2</sup>

## **Order for MassHealth**

If MassHealth has not already done so, remove aid pending.

## **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.

---

Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

---

<sup>2</sup> This denial does not preclude the Appellant from submitting the MassHealth Disability Supplement into MassHealth to ascertain whether he qualifies for additional benefits, nor does it preclude the Appellant from contacting the Health Connector. Given the Appellant’s current situation as he testified to at the hearing, he is encouraged to do so.