

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2304702
Decision Date:	7/24/2023	Hearing Date:	07/10/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sherri Paiva



*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:	7/24/2023	Hearing Date:	07/10/2023
MassHealth's Rep.:	Sherri Paiva	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	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

On May 4, 2023, MassHealth changed the appellant's coverage from MassHealth Standard plus Premium Assistance to Health Safety Net because she no longer meets the income requirements for that benefit. (Exhibit 1). The appellant filed a timely appeal on June 8, 2023. (Exhibit 2). A change in the scope or amount of is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that she is not eligible for MassHealth because she no longer meets the income requirements.

Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility for MassHealth.

Summary of Evidence

The appellant is a member of a family group of four with earned income of approximately \$1,600 bi-weekly or \$3,467 each month. The appellant has not been deemed disabled by MassHealth or

the Social Security Administration. The appellant's children are eligible for MassHealth.

The appellant did not dispute the income information presented by MassHealth. The appellant testified that she was eligible for MassHealth Standard in the past and did not agree with the change in coverage as her circumstances have not changed within the last year.

As discussed at the hearing, at the beginning of the COVID-19 public health emergency (PHE), the federal government issued continuous coverage requirements for MassHealth. (MassHealth Eligibility Operations Memo 20-09; MassHealth Eligibility Operations Memo 23-13). Since March 2020, MassHealth put protections in place so that individuals receiving Medicaid would generally not lose their coverage unless they voluntarily withdrew, moved out of state, or passed away. (MassHealth Eligibility Operations Memo 20-09; MassHealth Eligibility Operations Memo 23-13). These continuous coverage requirements ended April 1, 2023. (Eligibility Operations Memo 23-13). Therefore, as of April 2, 2023, MassHealth began to redetermine all members to ensure they still qualify for their current benefits. This agency action resulted in a decision that the appellant is no longer eligible for MassHealth.

The appellant did not present evidence or testimony regarding expenses that MassHealth can consider in determining eligibility such as student loan interest or higher education tuition and fees. The appellant testified that she has insurance offered through her employer and MassHealth assisted with paying premiums for that insurance as well as payments for prescriptions and other medical expenses that the appellant could not afford to pay on her own.

The notice on appeal states that the appellant is eligible for the Health Safety Net. The MassHealth representative testified that the Health Safety Net is a program that pays for certain medically necessary services provided to qualified low-income patients at Massachusetts community health centers and acute care hospitals.

Findings of Fact

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

1. The appellant is an adult over the age of 19 who has children under the age of 19, is not HIV positive, and has not been deemed disabled by MassHealth.
2. The appellant is a member of a family group of four.
3. The appellant has an earned income of \$1,600 bi-weekly or \$3,467 each month.
4. The appellant has insurance through her employer.

Analysis and Conclusions of Law

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- 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.

Pursuant to 130 CMR 505.002(C)(1) a parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

- (a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);
- (b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and
- (c)
 1. the parent lives with his or her children, and assumes primary responsibility for the child's care, in the case of a parent who is

- separated or divorced, has custody of his or her children, or has children who are absent from home to attend school; or
- 2. the caretaker relative lives with children to whom he or she is related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care if neither parent lives in the home

The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001). The financial standards referred to in 130 CMR 505.000 use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: Household Composition. (130 CMR 505.001(B)).

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. MassHealth determines household composition through the Modified Adjusted Gross Income (MAGI) composition rules and the MassHealth Disabled Household composition rules. (130 CMR 506.002(A)). Individuals who expect to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who are not claimed as a tax dependent by another taxpayer have a household consisting 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. (130 CMR 506.002(B)(1)).

The appellant did not provide testimony or evidence to dispute that she filed taxes or is a member of a family group of four consisting of herself, her spouse and two dependents. (130 CMR 506.002(B)(1)). The appellant has not been deemed disabled by MassHealth or the Social Security Administration.

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. (130 CMR 506.007). Different households may exist within a single family, dependent on the family members' familial and tax relationships to each other. (130 CMR 506.007). The appellant's household meets the definition of a MassHealth MAGI household. (130 CMR 506.002).

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth MAGI households. (130 CMR 506.007). 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(D). (130 CMR 506.007).

Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007).

The appellant's earned income forms the basis for establishing her eligibility for MassHealth. The regulations include definitions of different types of earned income:

- (1) Earned income is total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.
- (4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination. (130 CMR 506.003(A)).

The appellant's compensation for work meets the definition of earned income.

MassHealth allows the following deductions from countable income when determining MAGI:

- 1) educator expenses;
- 2) reservist/performance artist/fee-based government official expenses;
- 3) health savings account;
- 4) moving expenses;
- 5) self-employment tax;
- 6) self-employment retirement account;
- 7) penalty on early withdrawal of savings;
- 8) alimony paid to a former spouse;
- 9) individual retirement account (IRA);
- 10) student loan interest; and
- 11) higher education tuition and fees. (130 CMR 506.003(D)).

The appellant did not present evidence of any of these expenses or deductions for MassHealth to consider. (130 CMR 506.003(D)).

In determining monthly income, MassHealth averages weekly income by 4.333. (130 CMR 506.007(A)). 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. (130 CMR 506.007(A)). In this case, five percentage points of the federal poverty level for a family group of 4 is \$125. In deducting \$125 from the appellant's household income, the appellant has countable income of \$3,342 which places her at 133.68% of the federal poverty level. As noted above, a parent or caretaker relative of a child less than 19 years of age is eligible for MassHealth Standard if the income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level. (130 CMR 505.002(C)(1)). The appellant's income exceeds this amount. Therefore, the decision made by MassHealth was correct.

This 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616