

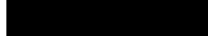
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address



Appeal Decision:	Denied in part; Remanded	Appeal Number:	2304707
Decision Date:	7/24/2023	Hearing Date:	07/10/2023
Hearing Officer:	Paul C. Moore	Record Closed:	07/20/2023

Appellant Representative:

 pro se (by telephone)

MassHealth Representative:

Stella Mudanya, Charlestown MEC (by telephone)



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied in part; Remanded	Issue:	Eligibility; MAGI
Decision Date:	7/24/2023	Hearing Date:	07/10/2023
MassHealth Rep.:	Stella Mudanya	Appellant Rep.:	Pro se
Hearing Location:	Board of Hearings (remote)	Aid Pending:	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 19, 2023, MassHealth notified the appellant that his MassHealth coverage would be terminated effective June 30, 2023 because his household income is too high (Exhibit 1). On June 6, 2023, the appellant timely filed an appeal and requested a fair hearing with the Board of Hearings (BOH) (Exhibit 2).¹ Termination of assistance is a valid ground for appeal to the BOH (130 CMR 610.032).

Action Taken by MassHealth

MassHealth proposed to terminate the appellant's MassHealth Standard coverage due to excess household income.

Issue

Was MassHealth was correct in proposing to terminate the appellant's MassHealth Standard coverage?

¹ The BOH has granted "aid pending" during this appeal pursuant to 130 CMR 610.036.

Summary of Evidence

A MassHealth representative from the Charlestown MassHealth Enrollment Center (MEC) testified by telephone that appellant, who is under age 65, was enrolled in MassHealth Standard during the Covid-19 public health emergency. He lives in a household of four, including his adult wife, daughter aged ■, and a minor child. All but the appellant's minor child have been enrolled in MassHealth Standard.² In May, 2023, following the end of the national public health emergency, the family's eligibility for benefits was redetermined by MassHealth. In order to continue to qualify for MassHealth Standard, the family's modified adjusted gross income (MAGI) may not exceed 133% of the 2023 federal poverty level (FPL) for a household of four. On May 19, 2023, MassHealth sent a notice to the appellant that his MassHealth coverage would be terminated effective June 30, 2023 because his household income is too high (Testimony, Exhibit 1).³

The MassHealth representative testified that because the appellant claims his ■ year-old daughter and minor child as dependents on his federal tax return, income of all household members was counted in the eligibility determination. The MassHealth representative testified that the appellant had earned income of \$31,307.00 per year, his spouse had earned income of \$80,445.00 per year, and his ■ year-old daughter had earned income of \$5,375.00 per year. The minor child has no earned or unearned income. These figures place the family at 303% of the FPL for a household of four, which would qualify the family for enrollment in a health plan with the Massachusetts Health Connector (Testimony).

The appellant testified by telephone that he was laid off from his job in February, 2023. He has had no earned income since that time. He confirmed that the earned income figures for his spouse and his ■ year-old daughter were correct. The appellant stated that he was diagnosed with stage one bladder cancer in April, 2023. He had surgery, and is undergoing treatment. During the pandemic, his business was devastated. Further, his ■ year-old daughter just finished her first year of college. The family is experiencing significant financial duress. He asked whether his cancer diagnosis, and the fact that his daughter is a college student, has any bearing on his MassHealth eligibility. The MassHealth representative responded that only the family's MAGI determines MassHealth eligibility (Testimony).

The appellant testified that he is actively looking for a new job, and does not plan to apply for disability benefits due to his cancer diagnosis (Testimony).

² The MassHealth representative testified that the appellant's minor child is already enrolled in a health plan with the Health Connector; however, on July 20, 2023, the MassHealth representative stated in an e-mail to the hearing officer that the appellant's minor child is not enrolled in the Health Connector (Exh. 7).

³ MassHealth notices to other family members, if any, were not provided.

The appellant testified that he recently received an award from the state Department of Unemployment Assistance. He tried to locate the award amount on his home computer during the hearing, but was unable to do so. Such an award amount would be countable in the appellant's eligibility determination, according to the MassHealth representative. The hearing officer agreed to keep the record of this appeal open for a week, or until July 17, 2023, for the appellant to send an e-mail copy of his unemployment award letter to the hearing officer and to the MassHealth representative. The hearing officer also agreed to keep the record of this appeal open until July 21, 2023 for the MassHealth representative to respond whether the family would be eligible for a MassHealth benefit (Exh. 4).

On July 11, 2023, the appellant submitted an electronic copy of the unemployment award letter to the hearing officer and to the MassHealth representative, which reflects that he will receive \$602.00 per week commencing on May 28, 2023 (Exh. 5).

On July 13, 2023, the MassHealth representative responded to the appellant and to the hearing officer by e-mail, as follows:

As per the unemployment award letter, [the appellant's] income was verified, and he qualifies for a health connector plan.

(Exh. 6)⁴

Findings of Fact

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

1. The appellant is under age 65, and lives in the community in a household of four (Testimony).
2. The appellant, his spouse, and a ■ year-old daughter were enrolled in MassHealth Standard during the Covid-19 public health emergency (Testimony).
3. The appellant claims his children as dependents on his federal tax return (Testimony).
4. In May, 2023, MassHealth redetermined the appellant's MassHealth eligibility following the end of the national public health emergency (Exh. 1).
5. By notice dated May 19, 2023, MassHealth informed the appellant that his MassHealth coverage would be terminated effective June 30, 2023 because his household income is too high (Exhibit 1).

⁴ Following the hearing, the hearing officer sent two e-mail inquiries to the appellant asking whether he has enrolled with the Massachusetts Health Connector, to which the appellant did not reply.

6. The appellant filed a timely appeal with the BOH on June 6, 2023 (Exh. 2).
7. The appellant, his spouse and his daughters have been receiving “aid pending.”
8. The appellant’s weekly unearned income, from the department of unemployment assistance, is \$602.00, effective May 28, 2023 (Exh. 5).
9. The appellant’s spouse earned income is \$80,445.00 per year, or \$6,703.00 monthly (Testimony).
10. The appellant’s adult daughter’s earned income is \$5,375.00 per year, or \$447.92 monthly (Testimony).
11. 133% of the FPL for a household of four in 2023 is \$3,325.00 per month (88 *Federal Register* 3424, pp. 3424-3425 (January 19, 2023)).
12. The family’s monthly MAGI is \$602.00 * 4.333 (\$2,608.00), plus \$6,703.00, plus \$447.92, yielding \$9,758.92.
13. Although the appellant has a recent cancer diagnosis, he has not been deemed disabled by the Social Security Administration or by MassHealth (Testimony).
14. Neither the appellant’s spouse, nor his daughters, are disabled.

Analysis and Conclusions of Law

MassHealth regulation 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(A) notes in relevant part:

(A) The MassHealth coverage types are the following:

- (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.

Because the appellant, his spouse and his daughters are not considered disabled by MassHealth, they do not qualify for MassHealth Standard or MassHealth CommonHealth.

In order to qualify for MassHealth CarePlus, regulation 130 CMR 505.008(A) notes as follows:

- (1) 130 CMR 505.008 contains the categorical requirements and financial standards for MassHealth CarePlus. This coverage type provides coverage to adults 21 through 64 years of age.
- (2) Persons eligible for MassHealth CarePlus direct coverage are eligible for medical benefits, as described in 130 CMR 450.105(B): *MassHealth CarePlus* and 130 CMR 508.000: *Managed Care Requirements* and must meet the following conditions.
 - (a) The individual is an adult 21 through 64 years of age.
 - (b) 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*.
 - (c) The individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133 percent of the federal poverty level.**
 - (d) The individual is ineligible for MassHealth Standard.
 - (e) The adult complies with 130 CMR 505.008(C).
 - (f) The individual is not enrolled in or eligible for Medicare Parts A or B.

(Emphasis added)

Further, MassHealth regulations at 130 CMR 506.007 state as follows:

To calculate financial eligibility for an individual, the MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single

family, dependent on the family members' familial and tax relationships to each other. The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households. 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.**

(Emphasis added)

The appellant is married, and claims two daughters as dependents on his federal tax return. Income from all four individuals is countable in the family's eligibility determination. The evidence shows that the appellant's monthly unearned income is \$2,608.00, his spouse's monthly earned income is \$6,703.00, and his adult daughter's monthly earned income is \$447.92. Adding these figures yields a monthly MAGI of \$9,758.92. This figure is at 390% of the 2023 FPL for a household of four. Subtracting 5% from this percentage, as instructed by 130 CMR 506.007(A), above, yields 385% of the FPL. This is well above the cutoff of 133% of the FPL for a household of four. Thus, the appellant, his spouse, and his adult daughter do not qualify for MassHealth CarePlus.

The appellant's minor child may be eligible for the Children's Health Insurance Program, and/or the Children's Medical Security Plan (CMSP). For the latter, the family may need to pay monthly premium pursuant to 130 CMR 506.011. MassHealth should inform the appellant of the minor child's eligibility for CMSP, and any premium, as soon as possible.

The appellant, his spouse and adult daughter should, at their earliest convenience, call to enroll in a plan with the Massachusetts Health Connector, if they have not already done so.

At this time, however, for the foregoing reasons, the appeal must be DENIED.

Order for MassHealth

Extend the appellant's "aid pending" until August 1, 2023, then terminate MassHealth Standard. For the appellant's minor child, determine if she is eligible for the Children's Medical Security Plan (CMSP) and what her monthly premium will be based on household income. Notify the appellant in writing within thirty days of the date of this decision of the minor child's CMSP eligibility, with appeal rights.

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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Nga Tran, Appeals Coordinator, Charlestown MEC