

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305178
Decision Date:	07/27/2023	Hearing Date:	07/26/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Michelle Carvalho



*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:	07/27/2023	Hearing Date:	07/26/2023
MassHealth's Rep.:	Michelle Carvalho	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

Through a notice dated, May 24, 2023, MassHealth determined the appellant ineligible because his income was too high. The appellant filed a timely appeal on June 24, 2023. Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that he is not eligible for MassHealth because he 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 one with dividend income of \$4,748 each month. The appellant has not been deemed disabled by MassHealth or the Social Security Administration.

The appellant did not dispute the income information presented by MassHealth. The appellant testified that he was eligible for MassHealth in the past and did not agree with the denial of coverage on appeal.

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 on 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.

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, is not HIV positive, and has not been deemed disabled by MassHealth.
2. The appellant is a member of a family group of one.
3. The appellant has dividend income in the amount of \$4,748 each month.

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.

Based on testimony and evidence presented at hearing, the appellant only meets the categorial requirements for MassHealth Care Plus.

Persons eligible for MassHealth CarePlus 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% 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. (130 CMR 505.008(A)(2)).

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 meets the MAGI rules for a household of one.

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).

Pursuant to 130 CMR 506.003(B), unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return. Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income. (130 CMR 506.003(B)(2)). MassHealth deemed the appellant's income as unearned income and the appellant did not dispute the fact that the income received does not meet the definition of unearned 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 household of 1 is \$60.75. In deducting \$60.75 from the appellant's household income, the appellant has countable income of \$4,687.25 which places him at approximately 386% of the federal poverty level. As noted above, the appellant only meets the categorial requirements for MassHealth CarePlus. In applying the income standards to this determination, the appellant is not eligible for CarePlus as his modified adjusted gross income is more than 133% of the federal poverty level. 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