

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2305411
<b>Decision Date:</b>	08/24/2023	<b>Hearing Date:</b>	08/18/2023
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Elizabeth Nikoson, Taunton 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	08/24/2023	<b>Hearing Date:</b>	08/18/2023
<b>MassHealth's Rep.:</b>	Elizabeth Nikoson	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 31, 2023, MassHealth determined that Appellant is not eligible for MassHealth coverage because household income exceeds program limits, but Appellant is eligible to enroll in a Connector Plan (130 CMR 505.001, 506.002 and Exhibit 1). Appellant filed this appeal in a timely manner on July 3, 2023 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that Appellant is not eligible for MassHealth coverage because household income exceeds program limits.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.002 et seq. in determining that Appellant is not MassHealth eligible because household income exceeds program limits.

## Summary of Evidence

The MassHealth representative testified that Appellant lives in a household of one person. Appellant submitted a MassHealth renewal on May 31, 2023. Appellant is ■ years old and files taxes. Appellant is not employed. No disabilities are indicated. Appellant's monthly gross income consists of \$2,135 Social Security income, which equates to 168.66% of the federal poverty level for a household of 1. Because gross household income exceeds 133% of the federal poverty level, \$1,616 for a household of 1, Appellant is not eligible for MassHealth coverage. Appellant is enrolled in a Health Connector Plan and has Health Safety Net.

Appellant testified that she is a widow and receives \$2,135 gross Social Security income and net income of \$1,921.50. Her household income is absorbed by \$1,769.22 housing expenses and living expenses leaving \$152.28 each month. She stated that she pays a \$34.50 premium for health insurance through the Health Connector which she cannot afford.

## Findings of Fact

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

1. Appellant submitted a MassHealth renewal on May 31, 2023.
2. Appellant is ■ years old, lives in a household of 1, and files taxes.
3. Appellant is not employed, and no disabilities are indicated.
4. Appellant's monthly gross income consists of \$2,135 Social Security income, which equates to 168.66% of the federal poverty level for a household of 1.
5. Appellant is enrolled in a Health Connector Plan and has Health Safety Net.
6. The relevant monthly federal poverty levels for a household size of 1 are: 133%: \$1,616; 150%: \$1,823.

## Analysis and Conclusions of Law

Effective April 1, 2023, MassHealth no longer maintains continuous coverage related to the COVID-19 pandemic for members if they have been successfully renewed in the last 12 months.<sup>1</sup> A renewal application was submitted on May 31, 2023. Therefore, Appellant's application and

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<sup>1</sup> See Eligibility Operations Memo 23-11 April 2023.

eligibility is determined based on MassHealth coverage criteria.<sup>2</sup> Regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a 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 set forth at 130 CMR 505.001(A) 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.

The financial standards referred to in 130 CMR 505.000 et. seq. 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)); and in this case 130 CMR

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<sup>2</sup> See Eligibility Operations Memo 23-18 July 2023.

506.002(B)(1) applies, and Appellant is correctly included in the household composition.<sup>3</sup> Countable household income includes earned, unearned, and rental income,<sup>4</sup> less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable by Appellant at hearing.<sup>5</sup> Appellant is ■ years old, and is not disabled or employed. Appellant's monthly gross Social Security income is \$2,135.<sup>6</sup> Appellant is not categorically for MassHealth Standard or

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<sup>3</sup> (B) MassHealth MAGI Household Composition.

(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.

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1., 2., or 3., the household consists of

- 1. the individual;
- 2. the individual's spouse, if living with him or her;
- 3. the taxpayer claiming the individual as a tax dependent;
- 4. any of the taxpayer's tax dependents; and
- 5. if any woman described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals

- 1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the taxpayer;
- 2. individuals younger than 19 years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;
- 3. individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent. For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

<sup>4</sup> See 130 CMR 506.003 (A)-(C).

<sup>5</sup> The following are allowable 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.

<sup>6</sup> See 130 CMR 506.003(B) Unearned Income. (1) 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. (2) 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

CommonHealth coverage because she does not have minor children living with her or is not disabled. Appellant is not eligible for CarePlus because gross household income exceeds 133% of the federal poverty level (130 CMR 505.008). Appellant is not categorically eligible for MassHealth Family Assistance which applies to children (130 CMR 505.005) or MassHealth Limited which for individuals between 21 and 64 years of age applies to certain non-citizens with MassHealth MAGI household income less than 133% of the FPL (130 CMR 505.006(B)(1)(a)(4)).

Because the MassHealth determination is correct, the appeal is DENIED.

Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.

## **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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: Appeals Coordinator, Taunton MEC

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deducted in the previous year, and gross gambling income.