

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2305640
<b>Decision Date:</b>	09/25/2023	<b>Hearing Date:</b>	08/10/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**

Pro se



**Appearance for MassHealth:**

Georges Jorcelin, Charlestown MEC

**Interpreter:**



*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>	Over Income
<b>Decision Date:</b>	09/25/2023	<b>Hearing Date:</b>	08/10/2023
<b>MassHealth's Rep.:</b>	Georges Jorcelin	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<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 June 23, 2023, MassHealth notified appellant she did not qualify for benefits because MassHealth determined that her income was too high. (Ex. 1). The appellant filed this appeal in a timely manner on July 5, 2023. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined appellant is not eligible for MassHealth because she had more countable income.

### Issue

The appeal issue is whether MassHealth was correct in determining that appellant was over income to qualify for MassHealth.

### Summary of Evidence

Appellant, her witness and the MassHealth worker appeared by telephone and were all sworn. The MassHealth representative stated that the appellant is under age 65, lives in a two-person household and receives income from employment, totaling \$323.00 a week. (Testimony; Ex. 5). Appellant's spouse had income of \$1,907.00 monthly from social security. (Testimony; Ex. 5). The MassHealth representative testified that the total gross monthly income of the household was \$3,332.56, exceeding the limit for MassHealth CarePlus. (Testimony; Ex. 5). The MassHealth representative stated the last time appellant was on MassHealth was in 2018 when she had MassHealth CarePlus. The MassHealth representative stated that based on income and the federal poverty level appellant was eligible for the Health Connector. (Testimony). The MassHealth representative also testified that if appellant's income changes, she has ten business days to call MassHealth to report the change of income or send in a paystub.<sup>1</sup> The MassHealth representative also informed appellant that if there is a disability involved, she could possibly qualify for MassHealth CommonHealth. She would need to fill out an adult disability form and return it for review.

Appellant and her husband testified. Appellant stated she did work but questioned the weekly salary attributed to her as quoted by the MassHealth representative. Appellant's husband confirmed the monthly social security income he received, as stated by the MassHealth representative, was correct. In vigorous testimony, he stated he did not believe he and the appellant made over three thousand dollars a month. He testified that the appellant's employer cut appellant's work hours in the past and closed the business for a period of time, in what the husband believed was a conscious plan by appellant's employer not to have to pay his employees. The husband was assertive in his belief that women's health care in Massachusetts was under attack.

## Findings of Fact

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

---

<sup>1</sup> Appellant testified she did not make \$323 week at this time.

1. Appellant is under age 65, not disabled and lives in a two-person household. (Testimony).
2. Appellant and her spouse have a gross monthly income of \$3,307.00.<sup>2</sup> (Testimony; Ex. 5).
3. 133% of the federal poverty level is \$2,186.00 a month for a household of two. (2023 MassHealth Income Standards and Federal Poverty Guidelines).

## Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

505.008: MassHealth CarePlus:

(A) Overview

(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.

130 CMR 505.008(A).

Deductions. 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;

---

<sup>2</sup> This is based upon calculations done by this hearing officer. The MassHealth worker found a gross monthly income of \$3,322.56. (Testimony).

- (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).

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) are subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard.

The appellant lives in a two-person household and has total gross monthly income of \$3,307.00.<sup>3</sup> This was attained by adding appellant's weekly income of \$323.00 from employment, multiplied by 4.333, equaling \$1,400.00 gross monthly income for appellant. The spouse's monthly income is \$1,907.000 from social security. To obtain gross monthly income, you add \$1,400.00 and \$1,907.00, equaling \$3,307.00. Pursuant to 130 CMR 506.007(A), 5 percentage points of the current FPL is deducted to determine countable income. For a household of two, 5 percentage points of the current FPL equals \$109.00. Accordingly, the appellant's countable income is \$3,198.00. The income limit for MassHealth Care Plus is 133% of the federal poverty level, or \$2,186.00 a month for a household of two. The appellant's countable income exceeds this amount and thus she is not financially eligible for MassHealth Care Plus. MassHealth's action is upheld and the appeal is denied.

## **Order for MassHealth**

None.

## **Notification of Your Right to Appeal to Court**

---

<sup>3</sup> The MassHealth representative testified he determined a gross monthly income of \$3,322.56. Both these figures exceed the 133% of the federal poverty level for a household of 2.

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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

---

Thomas Doyle  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129.