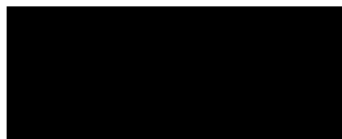


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305654
Decision Date:	09/29/2023	Hearing Date:	08/10/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone



Appearance for MassHealth:
Via telephone
Monica Ramirez



*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; Over-income; Under 65
Decision Date:	09/29/2023	Hearing Date:	08/10/2023
MassHealth's Rep.:	Monica Ramirez	Appellant's Rep.:	<i>Pro se</i> ; Spouse
Hearing Location:	Quincy Harbor South 3 (Remote)	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 June 2, 2023, MassHealth downgraded the Appellant's MassHealth benefits from MassHealth Standard to Health Safety Net because MassHealth determined that the Appellant was over the allowable income limits. (See, Exhibit 1). The Appellant filed this appeal in a timely manner on July 10, 2023. (See, 130 CMR 610.015(B); Exhibit 2). Reduction of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

Action Taken by MassHealth

MassHealth downgraded the Appellant's MassHealth benefits because he was over the allowable income limits.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over income for MassHealth Standard benefits.

Summary of Evidence

A MassHealth representative appeared at the hearing *via* telephone and testified as follows: notations pertaining to this appeal state that the Appellant contacted MassHealth on August 1, 2023 to report that he was receiving unemployment. The MassHealth representative inquired as to whether this information is still accurate.

The Appellant and his spouse appeared at the hearing *via* telephone and testified that the Appellant is currently employed, however, the Appellant's spouse is unemployed. The Appellant's spouse explained that she intends to fax the pertinent paperwork to MassHealth. Once received, the Appellant's spouse testified that this should change the appeal status.

The MassHealth representative inquired about the unemployment amount that the Appellant's spouse currently receives weekly (gross amount). The Appellant's spouse explained that she is currently receiving \$363.00, along with an additional \$50 for one dependent. The Appellant's spouse further explained that she has twin children with special needs, however. The MassHealth representative testified that the \$363.00 figure plus \$50 amounts to \$413.00 per week, before deductions.

Next, the MassHealth representative clarified the Appellant's employment. The Appellant testified that he is seasonally employed from April through October. The Appellant further testified that he works approximately 30-40 hours per week at \$29.00 per hour. The Appellant is paid bi-weekly, which amounts to \$2,030.00 bi-weekly, before taxes, for a total monthly income amount to \$4,399.00. The Appellant testified that this figure seems high because he does not make that much each month. He explained that his employment is weather-dependent so if it rains for example, he does not work and therefore is not paid. The Appellant stated that he does not receive sick time either. The MassHealth representative explained that she used MassHealth calculations to determine the Appellant's monthly income. Specifically, she took the \$2,030.00 figure and multiplied that amount by 2.167 which equals \$4,399.00 per month, for the months that the Appellant testified to regarding employment. The Appellant reiterated that he does not take home that much in income but understands that the MassHealth representative must use MassHealth calculations before deductions. The Appellant expressed his frustration because he knows other MassHealth members who did not ever have changes made to their benefits.

The MassHealth representative explained that she entered the updated income amounts as reported by the Appellant and his spouse. Currently, the Appellant qualifies for the Health Connector because his income exceeds the Federal Poverty Level (FPL) Guidelines. The Appellant's spouse testified that the Appellant is only paid twice per month. She explained that they have a mortgage and additional bills and therefore the guidelines are unfair. The MassHealth representative explained that the Appellant falls 188.35% above the 133% FPL limit for 4 people, which is why he does not qualify for MassHealth Standard. The Appellant reiterated his frustration

and inquired as to whether everyone receiving free healthcare is required to go through this process. In response, the MassHealth representative affirmed that every applicant is asked the same questions. The Appellant's spouse expressed her frustration and testified that she and her spouse have been receiving MassHealth benefits for 13 years without issue until now. She testified that this is not fair, however, both she and the Appellant understand that the MassHealth representative must follow MassHealth guidelines. The Appellant's spouse next inquired as to their children's benefits. She explained that a monthly premium was assessed for her children's healthcare when it should be free, pursuant to federal law. The MassHealth representative testified that both children qualify for MassHealth CommonHealth which is similar to MassHealth Standard. The only difference is the monthly premium amount was assessed because of the household income, as reported. The Appellant's spouse testified that is ridiculous. The MassHealth representative asked whether the Appellant's children were currently receiving disability benefits. The Appellant and his spouse explained that their children did not receive any assistance. The MassHealth representative testified that there were no additional changes that she could make to their accounts, unfortunately. The Appellant's spouse inquired as to whether there was someone higher than the MassHealth representative that could speak with her and the Appellant. In response, the MassHealth representative explained that she could e-mail her manager and have her manager contact them. The Appellant's spouse explained that she could not do so by telephone again because the Appellant already had to take time off for the current appeal. The Appellant testified that he and his family may be better off moving across the border.

Findings of Fact

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

1. The Appellant is an adult under the age of 65 who resides in a household of four with his spouse and two (2) minor children. (Testimony; Exhibit 3).
2. The Appellant's current monthly (gross) income, as reported, amounts to \$ 4,399.00. (Testimony).
3. On June 2, 2023, MassHealth downgraded the Appellant's benefits because the Appellant exceeds the income limit to qualify for MassHealth Standard. (Exhibit 1).
4. The Appellant filed a timely appeal on July 10, 2023. (Exhibit 2).
5. The Appellant's monthly income falls above the 133% Federal Poverty Level (FPL) Guidelines by 188.35% for a family size of four (4). (Testimony).

Analysis and Conclusions of Law

The MassHealth regulations found at 130 CMR 505.000 *et. seq.* explains the categorical requirements and financial standards that must be met to qualify for a particular 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:

- (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.

(130 CMR 505.001(A)).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. In this case, as a parent, the Appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether he meets the income requirements to qualify.

A parent or caretaker is financially eligible for MassHealth Standard if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.” (See, 130 CMR 505.002(C)(1)(a)). To determine financial eligibility, pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

(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.

Here, the Appellant does not dispute that he resides in a household of four. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the Federal Poverty Level equates to a monthly income of \$ 3,325.00.¹

MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking the countable income, which includes earned income as 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). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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

¹ See, <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

In accordance with 130 CMR 506.003(A), countable income includes, in pertinent part, "the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses."

In the present case, the Appellant testified that he is currently employed from April through October. During the months of employment, the Appellant further testified that he works approximately 35 hours per week at \$ 29.00 per hour and is paid biweekly which is calculated as \$ 4,399.00 per month before deductions. Because this amount exceeds 133% of the FPL based on 2023 standards, the Appellant is not eligible for MassHealth benefits. While it is understandable that the Appellant has additional bills and monetary obligations, unfortunately that does not serve as a separate basis for approval. Therefore, MassHealth did not err in issuing the June 2, 2023 notice. This appeal is denied.²

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

² This denial does not preclude the Appellant from contacting MassHealth if his gross monthly income, as reported at the hearing, is incorrect or has decreased in amount.