

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305766
Decision Date:	10/16/2023	Hearing Date:	8/18/2023
Hearing Officer:	Cynthia Kopka	Record Open to:	9/29/2023

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jesus Tijero, Quincy



*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, under 65, income
Decision Date:	10/16/2023	Hearing Date:	8/18/2023
MassHealth's Rep.:	Jesus Tijero	Appellant's Rep.:	Pro se
Hearing Location:	Quincy (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

By notice dated June 27, 2023, MassHealth downgraded Appellant's eligibility from MassHealth CarePlus to Health Safety Net effective July 31, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on July 17, 2023 and was eligible to retain his previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through September 29, 2023. Exhibit 4.

Action Taken by MassHealth

MassHealth downgraded Appellant's eligibility from MassHealth CarePlus to Health Safety Net effective July 31, 2023.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant no longer qualified for MassHealth CarePlus benefits due to income.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of one. Appellant had previously qualified for MassHealth's CarePlus benefit on September 30, 2019, having reported no income. On January 3, 2022, Appellant reported new income, receiving \$806 weekly. Due to the Covid-19 protection, Appellant remained on the CarePlus coverage through the end of the public health emergency. On June 27, 2023, MassHealth downgraded Appellant's coverage from CarePlus to Health Safety Net, finding that Appellant's income was 282.53% of the federal poverty level (FPL). Exhibit 1. Appellant is eligible for a Health Connector plan with a tax credit, which would lower the monthly premium.

Appellant appeared by phone and testified as follows. Appellant testified that he is seasonally employed, so he only receives \$806 weekly during the weeks of his employment. Appellant works for a town in the department of public works, so how much seasonal work he does varies from year to year. Appellant estimates that he typically starts working in March or April and may finish anytime between October and December. Appellant cannot afford the Health Connector premium of \$70.

The hearing record was held open to allow Appellant to submit verification of seasonal employment and for MassHealth to recalculate Appellant's income as a seasonal employee. Exhibit 4. Ultimately, MassHealth reported that it recalculated Appellant's income as reported electronically. Appellant reported seasonal monthly income of \$3,293.08 over a six month period, which would be an average of \$1,646.54 monthly for the year (139.81% of the FPL). *Id.*

Findings of Fact

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

1. Appellant is in a household of one and under the age of 64.
2. Appellant reported seasonal monthly income of \$3,293.08 over a six month period. Exhibit 4.
3. In 2023, the monthly FPL for a household of one was \$1,215; 133% of the FPL was \$1,616.
4. On June 27, 2023, MassHealth downgraded Appellant's eligibility from MassHealth CarePlus to Health Safety Net effective July 31, 2023. Exhibit 1.
5. Appellant filed this timely appeal on July 17, 2023. Exhibit 2.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain 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:

- (1) MassHealth Standard – for people who are pregnant, 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 (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (6) MassHealth Medicare Savings Programs – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes 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) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(A) Earned Income.

- (1) Earned income is 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.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or

allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(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 deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
 - (2) reservist/performance artist/fee-based government official expenses;
 - (3) health savings account;
 - (4) moving expenses, for the amount and populations allowed under federal law;
 - (5) one-half self-employment tax;
 - (6) self-employment retirement account;
 - (7) penalty on early withdrawal of savings;
 - (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
 - (9) individual retirement account (IRA);
 - (10) student loan interest;
 - (11) scholarships, awards, or fellowships used solely for educational purposes;
- and

(12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law.

An adult under the age of 64 is eligible for MassHealth's CarePlus benefit if their income at or below 133% of the FPL. 130 CMR 505.008(A)(2)(c).

Here, Appellant's seasonal monthly income was reported as \$3,293.08 over a six month period income, which averaged across the year as \$1,646.54 monthly, 139.81% of the FPL. This is higher than the 133% limit to qualify for MassHealth CarePlus. Accordingly, Appellant's seasonal income is too high to be eligible for a MassHealth benefit. Appellant is eligible for a Health Connector plan, the monthly premium of which should be determined based on the updated FPL calculation.

This appeal is denied.

Order for MassHealth

Remove aid pending.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

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