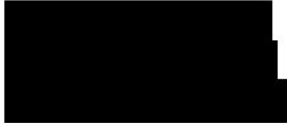


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305933
Decision Date:	10/10/2023	Hearing Date:	08/17/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nancy Derisma, Charlestown MassHealth
Enrollment Center

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

Appeal Decision:	Denied	Issue:	Under 65; Eligibility; Income
Decision Date:	10/10/2023	Hearing Date:	08/17/2023
MassHealth's Rep.:	Nancy Derisma	Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	Yes

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 July 3, 2023, MassHealth downgraded the appellant's benefits from MassHealth Standard to the Health Safety Net because MassHealth determined that the appellant no longer meets the income requirements for MassHealth Standard. *See* 130 CMR 502.002(C)(1)(a) and Exhibit 1. The appellant filed this appeal in a timely manner on July 19, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Reduction in assistance is valid grounds for appeal. *See* 130 CMR 610.032.¹

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits from MassHealth Standard to the Health Safety Net.

¹ On the same day, a notice also issued downgrading the appellant's minor child from MassHealth Standard to MassHealth Family Assistance with a \$12.00 per month premium. After hearing, the appellant indicated that she is not challenging that notice.

Issue

Whether MassHealth correctly calculated the appellant's income in determining her to no longer be financially eligible for MassHealth Standard.

Summary of Evidence

The appellant is an adult under the age of 65 who resides in a household of two with her minor child. She appeared at hearing by telephone. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center who also participated telephonically. The following is a summary of the testimony and evidence provided at hearing:

MassHealth initially calculated the appellant's income to be at 184.44% of the federal poverty level (FPL). This included \$580.00 in weekly income from the appellant plus \$600.00 per month in child support payments. As regulations prohibit child support from being included in income calculations when determining MassHealth eligibility, the \$600.00 in child support payments were removed from the calculation. However, the appellant's weekly income still placed her at approximately 160% of the FPL for a household of two, rendering her ineligible for MassHealth benefits beyond the Health Safety Net.

The appellant testified that she her weekly income varies. She is currently making \$16.36 per hour, and her hours range from 30 to 40 hours per week but averages 37 or 38 hours per week. Her hourly wage, \$16.36, multiplied by the average number of hours she works per week, 37, equals \$605.32 per week. This weekly rate multiplied by 4.3, which is the average number of weeks in a month each year, equates to \$2,622.85. The maximum income allowed for a household of two to remain at or below 133% of the FPL is \$2,186.00.

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 two with her minor child. Testimony, Exhibit 4.
2. On July 3, 2023, MassHealth issued a notice downgrading the appellant's benefits from MassHealth Standard to the Health Safety Net because her income exceeded the limit allowed by the regulations. Exhibit 1.
3. That income calculation incorrectly included \$600.00 in child support the appellant receives monthly. Testimony.

4. The appellant currently makes \$16.36 per hour and works, on average, 37 hours per week. This equates to approximately \$2,622.85 per month. Testimony.
5. The maximum monthly income possible for a household of two to remain at or below 133% of the federal poverty level is \$2,186.00. See MassHealth Income Standards and Federal Poverty Guidelines.

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 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 caretaker for her minor child, the appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether she 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.” 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 she resides in a household of two. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the FPL equates to a monthly income of \$2186.00 for that household size. See *chart* at <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

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 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.

Per 130 CMR 506.003(A), countable income includes, in relevant 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.” There is no evidence of any other type of earned income or unearned income relevant to this appeal.

In this case, the figures provided by the appellant at hearing add up to a monthly income of approximately \$2,622.85. As that amount exceeds 133% of the FPL for a family of two based on 2023 standards, the appellant is not eligible for MassHealth benefits. Therefore, although the income calculation was not accurate, the outcome of the July 3, 2023, notice remains unchanged, and the appeal is denied.

Order for MassHealth

None, except to 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.

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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