

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2306158
Decision Date:	10/18/2023	Hearing Date:	08/24/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone
Pro se

Appearance for MassHealth:
Via telephone
Mayra Vasquez



*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:	Dismissed	Issue:	Eligibility; Under 65; Over income; Family size
Decision Date:	10/18/2023	Hearing Date:	08/24/2023
MassHealth's Rep.:	Mayra Vasquez	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Tewksbury MassHealth Enrollment Center Room 1 (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 30, 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. (Exhibit 1). The Appellant filed this appeal in a timely manner on or about July 17, 2023. (130 CMR 610.015(B); Exhibit 2). Reduction of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over

the income guidelines for MassHealth Standard benefits.

Summary of Evidence

A MassHealth representative appeared at the hearing *via* telephone and testified as follows: the downgrade letter that the Appellant received on June 30, 2023, was due to her family (household) size and income. She explained that MassHealth has the Appellant listed as a household of one (1) with a monthly income of \$ 2,081.14. The MassHealth income limit for a household of one (1) is \$ 1,616.00 or 133% of the Federal Poverty Level (hereinafter “FPL”) to qualify for MassHealth Standard benefits. Upon inquiry, the MassHealth representative explained that the Appellant provided additional documentation for review. She reviewed said documentation to ascertain whether the Appellant’s household size should reflect a household of two (2).

The Appellant appeared at the hearing telephonically and testified that her ex-spouse formerly received sole physical custody of their child. However, this was modified by Probate Court in 2021 so that both parties now share joint legal custody. (See, Exhibit 5, p. 8). The Appellant explained that she claims her child resides with her and she claims him as a tax dependent. The Appellant further explained that her former mother-in-law interfered with her MassHealth account in years prior, thereby impersonating her. Her former mother-in-law also changed the Appellant’s mailing address so that she would receive subsequent MassHealth notices that were addressed to the Appellant. The following month, the Appellant’s former mother-in-law then changed her grandchild’s address to (inaccurately) reflect that the Appellant’s child resides with the Appellant’s former spouse. Moreover, the Appellant’s former mother-in-law intercepted her mail and made additional changes to the Appellant’s MassHealth renewal application which resulted in her (and her child’s) coverage being cancelled just prior to the COVID pandemic. The Appellant testified that her former mother-in-law became her ex-husband’s Power of Attorney after her ex-husband suffered from a stroke in 2018 which resulted in quadriplegia. The Appellant explained that she notified MassHealth, the Post Office, and Probate Court about the interference with her MassHealth account, mailing address and her child. She explained that this is the reason for her appeal. Further, the Appellant testified that MassHealth previously told her that the pertinent Court documentation was never received nor would MassHealth give her any information regarding her account. The Appellant testified that her child implored her to keep this appeal in place.

In response, the MassHealth representative explained that she reviewed the pertinent documentation (Court and school records) submitted by the Appellant and confirmed that the Appellant’s child currently resides with her. The MassHealth representative explained that the Appellant’s submitted documentation was also reviewed by her manager and requested a brief recess to further discuss the appeal with her manager, which was granted. Upon her return, the MassHealth representative testified that the Appellant’s child was transferred back into the

Appellant's account.¹ As a result, 133% of the FPL for a household of 2 equates to \$ 2,186.00. Because the Appellant's monthly income amounts to \$ 2081.14, she will resume MassHealth Standard coverage. The Appellant expressed her appreciation.

Findings of Fact

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

1. The Appellant is under the age of 65 and a MassHealth recipient. (Exhibit 3).
2. On or about June 30, 2023, MassHealth sent a downgrade notice to the Appellant after determining her household size and monthly income for a family of one (1). (Testimony; Exhibit 1).
3. The Appellant timely appealed on or about July 17, 2023. (Exhibit 2).
4. The Appellant's child currently resides with the Appellant. (Testimony; Exhibit 4; Exhibit 5).
5. MassHealth rectified the Appellant's household size and as a result, the Appellant qualifies for MassHealth Standard benefits. (Testimony).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the Appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR

¹ The MassHealth representative offered to notate in the Appellant's file that no further changes are to be made to the Appellant's account unless she appears in-person at the MassHealth Enrollment Center (hereinafter "MEC") with picture identification, to which the Appellant agreed.

610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;

(5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;

(6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;

(7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;

(8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;

(9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;

(10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or

(11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

In the present case, the Appellant was satisfied with the resolution made at the hearing by the MassHealth representative. Because the appeal issue has been resolved in the Appellant's favor, there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed.

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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290