

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2306542
<b>Decision Date:</b>	10/24/2023	<b>Hearing Date:</b>	09/07/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Elizabeth Nickoson, Taunton 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>	Eligibility; Over Income; Under 65
<b>Decision Date:</b>	10/24/2023	<b>Hearing Date:</b>	09/07/2023
<b>MassHealth's Rep.:</b>	Elizabeth Nickoson	<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 July 27, 2023, MassHealth notified appellant that her health benefits were changing from Standard to Health Safety Net because MassHealth determined that her income was too high. (Ex. 1). The appellant filed this appeal in a timely manner on August 4, 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 changed appellant's health benefits from Standard to Health Safety Net.

### Issue

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

### Summary of Evidence

Appellant and the MassHealth worker appeared by telephone and were sworn. The MassHealth representative stated that the appellant lives in a three-person household, is a tax filer with two children and receives income from employment, totaling \$1,689.82 every two weeks. (Testimony). The MassHealth representative testified MassHealth received two pay stubs from appellant. One was dated July 3 to July 16, 2023 totaling \$1,621.45 and the second was dated June 19 to July 2, 2023 and totaled \$1,758.40. MassHealth added the totals from the two pay stubs and divided by two, for an average income every two weeks of \$1,689.82. The MassHealth representative testified that the total gross monthly income of the household was \$3,662.06, exceeding the limit for MassHealth Standard. (Testimony). The MassHealth representative stated that based on income and the federal poverty level appellant was eligible for the Health Connector. (Testimony). The MassHealth representative stated the two children have Family Assistance. (Testimony).

Appellant stated she did not understand why gross pay was counted because she had expenses for food, rent and childcare. The MassHealth representative stated that appellant did not qualify for any deductions listed in the regulations.

## Findings of Fact

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

1. Appellant is under age 65, not disabled and lives in a three-person household. (Testimony; Ex. 4).
2. Appellant has a gross monthly income of \$3,662.06. (Testimony).
3. 133% of the federal poverty level is \$2,756.00 a month for a household of three. (2023 MassHealth Income Standards and Federal Poverty Guidelines).
4. Appellant did not qualify for any deductions listed in the regulations.

## 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).

### 505.002: MassHealth Standard

(C) Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

(b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and

(c) (1). the parent lives with their children, and assumes primary responsibility for the child's care in the case of a parent who is separated or divorced, has custody of their children, or have children who are absent from home to attend school; or

(2). the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care, if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M).

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. (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) is 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 three-person household and has total gross monthly income of \$3,661.22.00.<sup>1</sup> This was attained by taking appellant's weekly income from employment of \$844.96.00, which is calculated by adding the pay from the two pay stubs received by MassHealth, which would total \$3,379.85 and divide that figure by 2, giving you the average income every two weeks of \$1,689.92. Multiply that figure by 2 and you get a monthly income of \$3,379.84. That number is divided by 4 and you get an average weekly pay of \$844.96. Then, pursuant to the regulations, multiply the weekly pay by 4.333, equaling \$3,661.22.00 gross monthly income. Pursuant to 130 CMR 506.007(A), 5 percentage points of the current FPL is deducted to determine countable income. For a household of three, 5 percentage points of the current FPL equals \$138.00 (rounded off). Accordingly, the appellant's countable income is \$3,523.21.00. The income limit for MassHealth Standard is 133% of the federal poverty level, or \$2,756.00 a month for a household of three. The appellant's countable income exceeds this amount and thus she is not financially eligible for MassHealth Standard. MassHealth's action is upheld and the appeal is denied.

## **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.

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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

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<sup>1</sup> This is the result of calculations done by this hearing officer.