

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2306724
<b>Decision Date:</b>	9/29/2023	<b>Hearing Date:</b>	09/12/2023
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	09/22/2023

**Appearance for Appellant:**



**Appearance for MassHealth:**

Sarah Sardella, Quincy MassHealth Enrollment  
Center (by telephone)



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	MassHealth CarePlus eligibility
<b>Decision Date:</b>	09/29/2023	<b>Hearing Date:</b>	09/12/2023
<b>MassHealth Rep.:</b>	Sarah Sardella	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (remote)		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated July 8, 2023, MassHealth notified the appellant that he would be ineligible for MassHealth CarePlus effective August 31, 2023 due to excess countable income (Exh. 1). The appellant filed a timely appeal of the denial with the Board of Hearings (BOH) on August 7, 2023 (130 CMR 610.015; Exh. 2).<sup>1</sup> Termination of MassHealth assistance is valid grounds for appeal to the BOH (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant is not eligible for MassHealth Standard due to excess income.

### Issue

The issue on appeal is whether MassHealth correctly determined that the appellant does not qualify for MassHealth benefits due to income.

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<sup>1</sup> The BOH granted "aid pending" in this matter pursuant to 130 CMR 610.036(A). Also, the appellant is eligible for Health Safety Net for a limited time pursuant to the July 8, 2023 MassHealth notice.

## Summary of Evidence

A MassHealth representative from the Quincy MassHealth Enrollment Center testified by telephone that the appellant is under age 65, not disabled, and lives in a household of one. In July, 2023, MassHealth processed an eligibility renewal form submitted by the appellant. The appellant has been enrolled in MassHealth CarePlus since at least March, 2020, when the Covid-19 pandemic began. The appellant reported on his eligibility renewal form that his modified adjusted gross income (MAGI) per month is \$2,400.00 from one employer, and \$200.00 per month from another employer. According to the MassHealth representative, this figure places the appellant at 208.99% of the 2023 federal poverty level (FPL) for a household of one, which exceeds the limit of 133% of the FPL to be eligible for MassHealth CarePlus (Testimony).<sup>2</sup>

The appellant testified by telephone that these income figures are accurate. He testified that he actually earned more income during the Covid-19 state of emergency than he does now. He testified that he is prescribed Suboxone by his physician, and needs a health plan to cover the cost of this medication (Testimony).

The MassHealth representative testified that the appellant should in a health plan with the Massachusetts Health Connector ("Connector") at his earliest convenience.

At the close of the hearing, the hearing officer agreed to keep the record of this appeal open until September 22, 2023 for the appellant to report back to the hearing officer and to the MassHealth representative, by e-mail, whether he has enrolled in a plan with the Connector (Exh. 4).

On September 22, 2023, the appellant sent an e-mail communication to both the hearing officer and to the appellant, stating as follows:

I contacted the health connector just a few minutes ago and spoke with a woman. .

.

She informed me that I am not eligible for any Health Connector plans at this time and that the only thing I am eligible for is MassHealth.

I informed her about the results of my appeal hearing on September 12th and that my income is too high for MassHealth and she told me that she doesn't see anything on her end regarding any appeal and says that I am still covered by Mass Health Care Plus. So I'm not sure how to proceed.

(Exh. 5)

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<sup>2</sup> On the other hand, the July 8, 2023 MassHealth notice says the appellant's MAGI is at 157.27% of the FPL for a household of one.

## **Findings of Fact**

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

1. The appellant is under age 65, not disabled, and lives in a household of one (Testimony).
2. The appellant was enrolled in MassHealth CarePlus since at least March, 2020 (Testimony).
3. In July, 2023, MassHealth processed an eligibility renewal form submitted by the appellant (Testimony).
4. Through a notice dated July 8, 2023, MassHealth notified the appellant that he would be ineligible for MassHealth CarePlus effective August 31, 2023 due to excess countable income (Exh. 1).
5. The appellant filed a timely appeal of this notice with the BOH on August 7, 2023 (Exh. 2).
6. The appellant's MAGI per month is \$2,400.00 from one employer, and \$200.00 per month from another employer (Testimony).
7. 133% of the FPL for a household of one in 2023 is \$1,616.00 monthly MAGI (88 *Federal Register* 3424, pp. 3424-3425 (January 19, 2023)).

## **Analysis and Conclusions of Law**

MassHealth regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type.

130 CMR 505.001(A) notes in relevant part:

(A) The MassHealth coverage types are the following:

- (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.

Because the appellant is not considered disabled by MassHealth, he does not qualify for MassHealth Standard or MassHealth CommonHealth.

In order to qualify for MassHealth CarePlus, regulation 130 CMR 505.008(A) notes as follows:

- (1) 130 CMR 505.008 contains the categorical requirements and financial standards for MassHealth CarePlus. This coverage type provides coverage to adults 21 through 64 years of age.
- (2) Persons eligible for MassHealth CarePlus direct coverage are eligible for medical benefits, as described in 130 CMR 450.105(B): *MassHealth CarePlus* and 130 CMR 508.000: *Managed Care Requirements* and must meet the following conditions.
  - (a) The individual is an adult 21 through 64 years of age.
  - (b) The individual is a citizen, as described in 130 CMR 504.002: *U.S. Citizens*, or a qualified noncitizen, as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens*.
  - (c) The individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133 percent of the federal poverty level.**
  - (d) The individual is ineligible for MassHealth Standard.
  - (e) The adult complies with 130 CMR 505.008(C).
  - (f) The individual is not enrolled in or eligible for Medicare Parts A or B.

(Emphasis added)

Further, MassHealth regulations at 130 CMR 506.007 state as follows:

To calculate financial eligibility for an individual, the MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is

applying for or renewing coverage. Different households may exist within a single family, dependent on the family members' familial and tax relationships to each other. The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households. 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.

Here, the appellant did not dispute that his monthly MAGI (earned income) is \$2,600.00 per month. This figure exceeds 133% of FPL (\$1,616.00), the threshold to qualify for MassHealth CarePlus coverage in 2023.

The appellant testified credibly that he earned more income during the Covid-19 pandemic than he does now, and still had MassHealth coverage. MassHealth Eligibility Operations Memo 20-09, "MassHealth Response to Coronavirus Disease 2019" (April 7, 2020), addresses this circumstance, as follows:

MassHealth will protect coverage for all individuals who have Medicaid coverage as of March 18, 2020, and for all individuals newly approved for coverage during the COVID-19 outbreak national emergency, and through the end of the month in which such national emergency period ends. **These members will not lose coverage or have a decrease in benefits during this time period.**

(Emphasis added)

The national state of emergency due to Covid-19 ended on May 11, 2023. Therefore, MassHealth is no longer protecting all members in the coverage types in which they were enrolled as of March 18, 2020.

MassHealth's decision that the appellant no longer qualifies for MassHealth CarePlus, or any other MassHealth benefit, was correct.

The appellant is eligible for a health plan with the Connector and should enroll at his earliest convenience.

For these reasons, the appeal is DENIED.

### **Order for MassHealth**

None, other than to rescind 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.

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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Tosin Adebisi, Appeals Coordinator, Quincy MEC