

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2306860
Decision Date:	09/14/2023	Hearing Date:	09/13/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Christina Prunier, Tewksbury MEC



*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 in part; Denied in part	Issue:	Eligibility; Under 65
Decision Date:	09/14/2023	Hearing Date:	09/13/2023
MassHealth's Rep.:	Christina Prunier	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 19, 2023, MassHealth determined that Appellant is not eligible for MassHealth coverage because he did not return an annual review form and MassHealth coverage would terminate on August 31, 2023 (130 CMR 502.007, and Exhibit 1). Appellant filed this appeal in a timely manner on August 11, 2023 (130 CMR 610.015(B) and Exhibit 2). Appellant is receiving aid pending protection (130 CMR 610.036). A second notice issued on August 4, 2023, informing Appellant that his income exceeds program limits for MassHealth (130 CMR 506.007 and Exhibit 1A). Termination of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that Appellant is not eligible for MassHealth coverage because he did not return an annual review form and MassHealth coverage would terminate on August 31, 2023. MassHealth also determined that Appellant is not eligible for MassHealth coverage because household income exceeds program limits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 502.007 in notifying Appellant that MassHealth coverage would end for failure to return an annual review form. A second issue is whether Appellant is not MassHealth eligible because household income exceeds program limits (130 CMR 505.001, 506.000 et seq.)

Summary of Evidence

The MassHealth representative testified that Appellant is currently receiving MassHealth CarePlus because he was unemployed. On July 19, 2023, MassHealth determined that Appellant is no longer eligible for MassHealth coverage because Appellant did not return an annual review form and MassHealth coverage would terminate on August 31, 2023. During the pendency of the appeal, Appellant returned the annual review form and updated his employment status and income. Appellant is [REDACTED] years old and lives in a household of 1 person. Appellant is not disabled. Appellant files taxes. Appellant is employed with monthly gross earned income totaling \$3,750 (\$45,000 annually) which equates to 303.64% of the federal poverty level for a household of 1. Because gross household income exceeds 133% of the federal poverty level, \$1,616 for a household of 1, Appellant is not eligible for MassHealth coverage. Appellant is eligible to enroll in a Health Connector Plan.

Appellant testified that he is employed and verified that MassHealth correctly recorded his income and household size. Appellant stated that health insurance is available through his employer, but he has a waiting period to enroll. Appellant testified that he has type 1 diabetes and requested a disability supplement.

Findings of Fact

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

1. Appellant is currently receiving MassHealth CarePlus because he was unemployed.
2. On July 19, 2023, MassHealth determined that Appellant is no longer eligible for MassHealth coverage because Appellant did not return an annual review form and MassHealth coverage would terminate on August 31, 2023. During the pendency of the appeal, Appellant returned the annual review form and updated his employment status and income.
3. Appellant is [REDACTED] old and lives in a household of 1 person.

4. Appellant is not disabled.
5. Appellant files taxes.
6. Appellant is employed with monthly gross earned income totaling \$3,750 (\$45,000 annually) which equates to 303.64% of the federal poverty level for a household of 1.
7. 133% of the federal poverty level for a household size of 1 person is \$1,616.

Analysis and Conclusions of Law

Effective April 1, 2023, MassHealth no longer maintains continuous coverage related to the COVID-19 pandemic if members have been successfully renewed in the last 12 months.¹ On July 19, 2023, MassHealth correctly determined that Appellant is no longer eligible for MassHealth coverage because he did not return an annual review form and MassHealth coverage would terminate on August 31, 2023 (130 CMR 502.007). During the pendency of the appeal, Appellant returned the annual review form and updated his employment status and income. Therefore, MassHealth correctly issued notice of Appellant's eligibility based on MassHealth coverage criteria, and issued notice on August 4, 2023.² Regulation 130 CMR 505.000 explains 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 set forth at 130 CMR 505.001(A) as follows:

- (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

¹ See Eligibility Operations Memo 23-11 April 2023.

² See Eligibility Operations Memo 23-18 July 2023 and 130 CMR 502.008.

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.

The financial standards referred to in 130 CMR 505.000 et. seq. use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: *Household Composition* (130 CMR 505.001(B)); and in this case 130 CMR 506.002(B)(1) applies, and Appellant is correctly considered as a household of 1.³ Countable

³ (B) MassHealth MAGI Household Composition.

(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.

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1., 2., or 3., the household consists of

- 1. the individual;
- 2. the individual's spouse, if living with him or her;
- 3. the taxpayer claiming the individual as a tax dependent;
- 4. any of the taxpayer's tax dependents; and
- 5. if any woman described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals

- 1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the taxpayer;
- 2. individuals younger than 19 years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;

household income includes earned, unearned, and rental income,⁴ less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable by Appellant at hearing.⁵ Appellant is not disabled. Appellant is employed with monthly gross earned income totaling \$3,750 monthly (\$45,000 annually).⁶ Appellant is not eligible for MassHealth Standard because he is not disabled, does not have minor children living with him, and income exceeds 133% of the federal poverty level for a household of 1, \$1,616. Appellant is not eligible for CommonHealth coverage because he is not disabled. Appellant is not eligible for CarePlus because he is employed with gross income that exceeds 133% of the federal poverty level (130 CMR 505.008). Appellant is not categorically eligible for MassHealth Family Assistance which applies to children (130 CMR 505.005) or MassHealth Limited, which for individuals between 21 and 64 years of age applies to certain non-citizens with MassHealth MAGI household income less than 133% of the FPL (130 CMR 505.006(B)(1)(a)(4)).

Because Appellant returned the annual review form during the pendency of the appeal, and MassHealth issued notice of eligibility, pursuant to 130 CMR 610.051, 610.071 all matters related to the July 19, 2023 notice are DISMISSED. Because MassHealth correctly determined Appellant's MassHealth eligibility by notice dated August 4, 2023, the appeal is DENIED

Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.

Order for MassHealth

None, other than rescind aid pending.

3. individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent. For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

⁴ See 130 CMR 506.003 (A)-(C).

⁵ The following are allowable deductions from countable income when determining MAGI: (1) educator expenses; (2) reservist/performance artist/fee-based government official expenses; (3) health savings account; (4) moving expenses; (5) self-employment tax; (6) self-employment retirement account; (7) penalty on early withdrawal of savings; (8) alimony paid to a former spouse; (9) individual retirement account (IRA); (10) student loan interest; and (11) higher education tuition and fees.

⁶ See 130 CMR 506.003(B)(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. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333 (130 CMR 506.007(A)(2)(c)).

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.

Thomas J. Goode
Hearing Officer
Board of Hearing

cc: Sylvia Tiar, Appeals Coordinator, Tewksbury MEC