

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Approved | Appeal Number: | 2307072 |
| Decision Date: | 11/21/2023 | Hearing Date: | 10/3/2023 |
| Hearing Officer: | Cynthia Kopka | | |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Tenzin Sungrab, Charlestown



*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

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|---------------------------|----------------------|--------------------------|-------------------------------|
| Appeal Decision: | Approved | Issue: | Eligibility, under 65, income |
| Decision Date: | 11/21/2023 | Hearing Date: | 10/3/2023 |
| MassHealth's Rep.: | Tenzin Sungrab | Appellant's Rep.: | Pro se |
| Hearing Location: | Charlestown (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

By notice dated July 28, 2023, MassHealth terminated Appellant's coverage effective August 31, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on August 15, 2023 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated Appellant's coverage effective August 31, 2023.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant was not eligible for MassHealth Standard as a pregnant person after her income increased.

Summary of Evidence

The MassHealth representative testified as follows. Appellant is in a household of three with her spouse and minor child. Appellant was pregnant at the time of hearing. Appellant was previously determined eligible for MassHealth Standard due to her pregnancy. Appellant took a new position in July 2023 and reported her income change. On July 28, 2023, MassHealth notified Appellant that it would terminate her MassHealth Standard coverage effective August 31, 2023. Exhibit 1.

Appellant's new position pays \$2,000 biweekly, which MassHealth projected to be \$52,008 yearly. Appellant's spouse works seasonally and makes \$31,000 yearly. MassHealth calculated the combined yearly income to be 271% of federal poverty level (FPL). Appellant and her spouse are not eligible for a MassHealth plan but would qualify for a subsidized Health Connector plan as joint filers without access to employer sponsored insurance. Appellant's minor child is eligible for Family Assistance with a \$20 monthly premium.

Appellant testified that she was due to give birth in mid-November 2023. Appellant's spouse works seasonally and MassHealth's estimation of \$31,000 yearly was correct. Appellant's yearly projection is based on the new employment, which Appellant has only had for a couple of months. Appellant estimated that with her prior employment, unemployment, and new position up until her anticipated unpaid maternity leave, her projected yearly total for 2023 would be \$28,250. Prior to her accepting new employment in July 2023, Appellant made approximately \$12,250 from her prior employer and from unemployment.

Using this update, MassHealth recalculated the household FPL to be 257%. The system did not generate a request for information for proof of income. The MassHealth representative testified that Appellant's family will have new demographics which will affect eligibility once the baby is born.

Findings of Fact

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

1. Appellant is in a household of three and under the age of 64.
2. Appellant was pregnant at the time of hearing, due to give birth in mid-November 2023.
3. In 2023, Appellant's annual income was projected to be approximately \$28,250 and her spouse makes \$31,000 yearly.
4. Prior to her accepting new employment in July 2023, Appellant made approximately \$12,250 in 2023 from her prior employer and from unemployment.

5. In 2023, the FPL for a household of three was \$2,072 monthly and \$24,864 yearly; 133% of the FPL was \$33,072 yearly; 200% of the FPL was \$49,728.
6. In 2023, the FPL for a household of four was \$2,500 monthly and \$30,000 yearly; 133% of the FPL was \$39,900 yearly; 200% of the FPL was \$60,000 yearly.
7. On July 28, 2023, MassHealth notified Appellant that her MassHealth Standard benefits would terminate on August 31, 2023. Exhibit 1.
8. Appellant filed this timely appeal on August 15, 2023. Exhibit 2.

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 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) MassHealth Standard – for people who are pregnant, 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 (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (6) MassHealth Medicare Savings Programs – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes 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) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(A) Earned Income.

- (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.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.
- (4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

- (1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.
- (2) Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) 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.

According to 130 CMR 505.002(D), a person who is pregnant is eligible for MassHealth Standard as follows (emphasis added):

(D) Eligibility Requirements for People who are Pregnant.

- (1) A person who is pregnant is eligible if
 - (a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 200% of the federal poverty level (FPL); and
 - (b) the individual is a citizen as described in 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrant, nonqualified PRUCOL, or other noncitizen as described in 130 CMR 504.003: *Immigrants*.
- (2) In determining the MassHealth MAGI household size, the unborn child or children are counted as if born and living with the mother.**
- (3) Eligibility, once established, continues for the duration of the pregnancy.**
- (4) Eligibility for postpartum care for pregnant individuals who meet the requirements of 130 505.002(B)(2) and (3), (C) through (H), and (L) continues for 12 months following the termination of the pregnancy plus an additional period extending to the end of the month in which the 12-month period ends.

A child born to an individual who was receiving MassHealth on the date of the child's birth is automatically eligible for one year. 130 CMR 505.002(B)(1)(b).

This appeal involves MassHealth's cancellation of Appellant's MassHealth Standard benefit on July 28, 2023, at a time Appellant was pregnant. MassHealth did not dispute that Appellant was eligible for MassHealth Standard as a pregnant person prior to her income change in July 2023. According to 130 CMR 505.002(D)(3), Appellant's eligibility for MassHealth Standard should have continued

through the duration of her pregnancy. Additionally, MassHealth calculated Appellant's income based on a household of 3, when 130 CMR 505.002(D)(2) instructs MassHealth to include the unborn child in the household. With the unborn child bringing the household size to four, Appellant's projected 2023 household income of \$59,250 yearly is under \$60,000, or 200% of the FPL for a household of four. Therefore, Appellant was eligible for MassHealth Standard as a pregnant person at the time she was terminated.

Accordingly, this appeal is approved. Appellant must notify MassHealth upon the birth of her child for MassHealth to redetermine eligibility.

Order for MassHealth

Rescind the July 28, 2023 termination of Appellant's MassHealth Standard benefit. Redetermine eligibility for MassHealth coverage and/or postpartum coverage upon Appellant's reporting that her status has changed.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

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

General Counsel – Sharon Boyle