

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307161
Decision Date:	11/13/2023	Hearing Date:	09/18/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:  
*Via telephone*  
*Pro se*

Appearance for MassHealth:  
*Via telephone*  
Emma Levine

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; Under 65; Over income
<b>Decision Date:</b>	11/13/2023	<b>Hearing Date:</b>	09/18/2023
<b>MassHealth's Rep.:</b>	Emma Levine	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center - Room 2 (Remote)	<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 14, 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. The notice further stated that the Appellant is eligible for a ConnectorCare plan through the Health Connector. (Exhibit 1). The Appellant filed this appeal in a timely manner on August 18, 2023. (See, 130 CMR 610.015(B); Exhibit 2). Reduction of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

### Action Taken by MassHealth

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

### Issue

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

income for MassHealth Standard benefits.

## Summary of Evidence

A MassHealth representative appeared at the hearing *via* telephone and testified as follows: The Appellant received the July 14, 2023 downgrade notice because the Appellant is over income and COVID protections no longer apply. (See, Exhibit 1). The Appellant's household monthly income is 264.55% above the Federal Poverty Level (hereinafter "FPL"). The MassHealth representative explained that the Appellant's current employment and income that MassHealth has on file includes the Appellant is self-employed and earns \$ 1000.00 per month. The Appellant's spouse grosses approximately \$ 55,000.00 per year.

The Appellant appeared at the hearing telephonically and testified through an interpreter that his income is correct, however, his spouse's income as reported is the gross amount before deductions. Additionally, the Appellant recently moved, and his rental expenses amount to approximately \$ 3000.00 per month. The Appellant explained that because of monthly rental and utilities expenses, his family does not earn enough income to pay for private health insurance.

In response, the MassHealth representative testified that she understood. She explained that the MassHealth regulations do not factor in other expenses such as rental payments. Further, the MassHealth regulations factor the gross amount of income before deductions. The Appellant testified that maintaining a home for his family is his main priority. He explained that if he cannot afford to pay for health insurance, he may cancel his existing coverage. The MassHealth representative testified that she could close out the Appellant's application, however, the Appellant's child is still eligible for Family Assistance benefits. A monthly premium will be assessed if the Appellant does not enroll in a health insurance plan through the Health Connector though. The Appellant testified that it would be difficult for him to currently enroll because he may not be able to afford it.

The MassHealth representative testified that the Health Connector plan has several options. Additionally, the Appellant's renewal application is in progress and therefore his options may change when he submits additional information. The Appellant inquired whether he should send his documented information to MassHealth or to the Health Connector. The MassHealth representative explained that he could send it to either because both entities use the same system. She further explained that it may be easier for the Appellant to send his documentation to the Health Connector.

The Appellant reiterated that he is currently in a difficult position because he must ensure that his family has a place to sleep, eat, maintain electricity, etc. The MassHealth representative expressed her sympathy and testified that in accordance with the MassHealth guidelines, unfortunately the Appellant is only eligible for health insurance through the Health Connector. The Appellant made

inquiry as to whether he could opt to complete his application with the Health Connector. In response, the MassHealth representative testified that he could and a copy of his renewal application would be mailed to him as well. The Appellant reiterated that it is difficult for him financially. Further, his child has a disability. In response, the MassHealth representative testified that MassHealth does not have that information on file. She suggested that when the Appellant submits his renewal application to make sure that he mentions his child has a disability on the application. The Appellant testified that he is concerned that his child will lose health care coverage. The MassHealth representative explained that the Appellant's child currently maintains health insurance through Family Assistance. She further explained that the Appellant will need to choose a health care plan through the Health Connector for his own health insurance coverage. The Appellant inquired whether his child will maintain health care coverage if he opts not to choose a plan through the Health Connector. The MassHealth representative explained that his child will maintain his health insurance, however, there will be a \$ 28.00 monthly premium assessed.

## **Findings of Fact**

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

1. The Appellant is under the age of 65. (Exhibit 3).
2. On or about July 14, 2023, MassHealth downgraded the Appellant's benefits from MassHealth Standard to Health Safety Net. (Testimony; Exhibit 1).
3. The Appellant is eligible for a ConnectorCare plan through the Health Connector. (Testimony; Exhibit 1).
4. The Appellant timely appealed on August 18, 2023. (Exhibit 2).
5. The Appellant's household size is comprised of a family of three (3). (Exhibit 1, p. 2).
6. The Appellant's household income exceeds the FPL by 264.55%. (Testimony; Exhibit 1, p. 3).

## **Analysis and Conclusions of Law**

The MassHealth regulations found at 130 CMR 505.000 *et. seq.* explains the categorical requirements and financial standards that must be met to qualify for a particular 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) *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.

(130 CMR 505.001(A)).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. In this case, as a parent, the Appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether he meets the income requirements to qualify.

A parent or caretaker is financially eligible for MassHealth Standard if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.” (See, 130 CMR 505.002(C)(1)(a)). To determine financial eligibility, pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

- (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.

Here, the Appellant does not dispute that he resides in a household of three. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the Federal Poverty Level equates to a monthly income of \$ 2,756.00, or \$ 33, 072.00 per year.<sup>1</sup>

MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking 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), less deductions described in 130 CMR 506.003(D). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

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<sup>1</sup> See, <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

In accordance with 130 CMR 506.003(A), countable income includes, in pertinent part, "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 the present case, the Appellant testified that he is currently self-employed, earning approximately \$ 1000.00 per month. The Appellant's spouse grosses approximately \$ 55,000.00 per year. Because this amount exceeds 133% of the FPL based on 2023 standards, the Appellant is not eligible for MassHealth benefits. While it is understandable that the Appellant has monetary obligations, unfortunately that does not serve as a separate basis for approval. Therefore,

MassHealth did not err in issuing the July 14, 2023 notice. This appeal is denied.<sup>2</sup>

## **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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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

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

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<sup>2</sup> This denial does not preclude the Appellant from reporting his child's disability to MassHealth upon completing his renewal application, nor does it preclude the Appellant from contacting the Health Connector to ascertain whether there are affordable options for his own health insurance coverage.