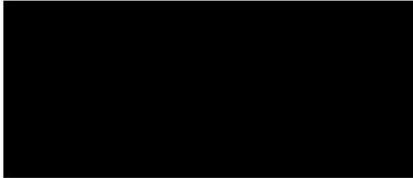


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307331
Decision Date:	10/30/2023	Hearing Date:	09/26/2023
Hearing Officer:	Paul C. Moore	Record Closed:	10/10/2023

Appearance for Appellants:



Appearance for MassHealth:

Stella Mudanya, Charlestown 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

Appeal Decision:	Denied	Issue:	Eligibility; MAGI
Decision Date:	10/30/2023	Hearing Date:	09/26/2023
MassHealth Rep.:	Stella Mudenya	Appellants' Rep.:	██████████
Hearing Location:	Board of Hearings (remote)	Aid Pending:	Yes (child two)

Authority

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

Jurisdiction

By notice dated August 22, 2023, MassHealth notified the appellant ("child one") that she does not qualify for MassHealth benefits, but that she is eligible for the Children's Medical Security Plan ("CMSP"), with no premium (Exh. 1). The appellant's parent filed a timely appeal with the BOH on August 23, 2023 (130 CMR 610.015; Exh. 2). Denial of MassHealth assistance is valid grounds for appeal to the BOH (130 CMR 610.032).

By a notice dated July 2, 2023, MassHealth notified the appellant ("child two") that her coverage would change from MassHealth Standard to CMSP, with no premium, because of a change in her circumstances (Exh. 3). The appellant's parent filed a timely appeal with the Board of Hearings (BOH) on August 23, 2023 (130 CMR 610.015; Exh. 4). Termination of MassHealth assistance is valid grounds for appeal to the BOH (130 CMR 610.032).

Actions Taken by MassHealth

MassHealth apprised the appellants that they were not eligible for MassHealth.

Issue

The issue on appeal is whether MassHealth correctly determined that the appellants are not

eligible for MassHealth.

Summary of Evidence

A MassHealth representative from the Charlestown MassHealth Enrollment Center testified by telephone that the appellants are both minor children. Child one [REDACTED], and child two [REDACTED] old. The appellants live in a household of three, with their father. The appellants' mother, who is their appeal representative, is considered a different household, for eligibility purposes. The MassHealth representative testified that the children's father claims them both as dependents on his federal tax return.¹ The children's parents are married and live together, but the appellants' mother does not file a tax return.² The MassHealth representative testified that the appellants' father earns \$9,231.00 monthly (modified adjusted gross income) (Testimony, Exhs. 1, 3).³

The MassHealth representative testified that in order to qualify for MassHealth Standard, the children's household MAGI may not exceed \$2,755.00 monthly. Therefore, the appellants do not qualify for MassHealth at this time, but instead qualify for a health plan through the Massachusetts Health Connector, and for CMSP. The MassHealth representative indicated that the coverage afforded through CMSP is not as comprehensive as that provided under MassHealth Standard; for example, inpatient services and emergency services are not covered (Testimony).

The appellants' mother, who is their appeal representative, testified by telephone that she believes both children are disabled, although no state or federal agency has yet made that determination. Child one was born prematurely at 25 weeks, and has multiple health problems, including heart, lung and eye issues. Child two also has developmental delays, and may be on the autism spectrum. Prior to hearing, the appellants' mother submitted into evidence two sets of medical records from the appellants' pediatrician, for the hearing officer's consideration. The appellants' mother testified that she believed the hearing officer could make a determination of disability for the children. The hearing officer explained that he does not have that authority. The hearing officer suggested that the appellants' mother may wish to obtain and complete MassHealth disability supplements for both children, and submit these to the Disability Evaluation Services unit of MassHealth. The MassHealth representative stated that she would send the appellants' mother two disability supplements to complete (Testimony).

The appellants' mother testified that she cannot afford the monthly premium payments she would be charged by the Massachusetts Health Connector (Testimony).

At the close of the hearing, the hearing officer agreed to leave the record of this appeal open for ten days for the appellants' mother to submit a copy of her husband's most recent paystub, and

¹ The terms "appellants" and "children" will be used interchangeably in this decision.

² The appellants' mother testified that she is disabled and is enrolled in MassHealth CommonHealth.

³ The appellants' mother's monthly income is \$699.00, according to the MassHealth representative.

for another seven days for the MassHealth representative to respond whether the appellants' MassHealth eligibility determination would change based on household MAGI.

On or about October 4, 2023, the hearing officer received via e-mail from the appellants' mother a copy of a paystub from the appellants' father's employment (Exh. 8). The paystub reflects that for the period September 3, 2023 through September 9, 2023, the appellants' father earned \$1,805.98 (*Id.*). The hearing officer forwarded this paystub to the MassHealth representative by e-mail on October 5, 2023, for her review (Exh. 9).

On October 10, 2023, following her review of the paystub, the MassHealth representative responded to the hearing officer by e-mail, as follows:

[T]he household determination still remains the same for all members after I have verified the income as per the paystub that was sent in.

(Exh. 10)

Findings of Fact

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

1. The appellants are minor children and reside with their parents (Testimony).
2. Child one [REDACTED] old, and child two is [REDACTED] old (Testimony, Exhs. 1 and 3).
3. By notice dated August 22, 2023, MassHealth notified the appellant ("child one") that she does not qualify for MassHealth benefits, but that she is eligible for CMSP, with no premium (Exh. 1).
4. By a notice dated July 2, 2023, MassHealth notified the appellant ("child two") that her coverage would change from MassHealth Standard to CMSP, with no premium, because of a change in her circumstances (Exh. 3).
5. The appellants' mother filed requests for fair hearing with the BOH on both notices on August 23, 2023 (Exhs. 2 and 4).
6. The appellants are claimed as dependents by their father on his federal tax return (Testimony).
7. The appellants' mother does not file a tax return (Testimony).
8. The appellants' father's weekly earned MAGI is \$1,805.98, and his monthly earned MAGI is

\$7,825.31 (Exh. 8).

9. 150% of the 2023 federal poverty level for a household of three is \$3,108.00 monthly (88 *Federal Register* 3424, pp. 3424-3425 (January 19, 2023)).
10. Both appellants have health issues, but have not been deemed disabled (Testimony).

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.

MassHealth regulation 130 CMR 505.002(B) states:

[MassHealth Standard] Eligibility Requirements for Children and Young Adults. Children and young adults may establish eligibility for MassHealth Standard coverage subject to the requirements described in 130 CMR 505.002(B).

...

(2) Children One through 18 Years Old.

(a) A child one through 18 years old is eligible if

1. the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 150% of the federal poverty level; and

2. the child is a citizen as described in 130 CMR 504.002: U.S. Citizens or a lawfully present immigrant as described in 130 CMR 504.003(A): Lawfully Present Immigrants.

(b) Eligibility for a child who is pregnant is determined under 130 CMR 505.002(D).

(Emphasis added)

130 CMR 506.007, "Calculation of Financial Eligibility," states in relevant part:

(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 in 130 CMR 506.002 with the applicable income standard for the specific coverage type.

(1) 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, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) 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(M).

(b) 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(D).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) 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.

(Emphasis added)

Next, pursuant to 130 CMR 506.002:

(B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on Their 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 their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;

(b) the taxpayer's spouse, if living with them regardless of filing status;

(c) all persons the taxpayer expects to claim as tax dependents; and

(d) if any individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

(Emphasis added)

Here, the appellants are [REDACTED] and [REDACTED] years old, respectively. They are claimed by their father on his federal tax return. MassHealth counted them as belonging to a household of three. However, based on 130 CMR 506.002(B)(1)(b), above, because the appellant's mother lives in the same household as her husband (the appellants' father), she should have been included in the household, regardless of the fact that she does not file a tax return.

In order for the appellants to qualify for MassHealth Standard, their household monthly MAGI cannot exceed 150% of the 2023 FPL, or \$3,108.00. The evidence shows that the appellants' father's monthly MAGI is \$7,825.31 (\$1,805.98 times 4.333). Therefore, the appellants do not qualify for MassHealth Standard at this time.⁴

In addition, since the appellants have not been deemed disabled, they also do not qualify for MassHealth CommonHealth at this time.

MassHealth regulation 130 CMR 522.004, "Children's Medical Security Plan," states in pertinent part:

⁴ For a household of four in 2023, 150% of the FPL is \$3,750.00 per month **monthly** (88 *Federal Register* 3424, pp. 3424-3425 (January 19, 2023)). Even if the household was considered to consist of four persons, rather than three, the appellant's father's income still exceeds 150% of the FPL (without counting the appellant's mother's monthly income of \$699.00).

(A) Regulatory Authority. The Children's Medical Security Plan (CMSP) is administered pursuant to M.G.L. c. 118E, § 10F.

(B) Overview. CMSP provides coverage to uninsured children younger than 19 years old who do not qualify for any other MassHealth coverage type, other than MassHealth Limited, and who do not have physician and hospital health-care coverage. To apply for these benefits, an applicant must submit an application as described in 130 CMR 502.001: Application for Benefits and 502.002: Reactivating the Application.

(C) Eligibility Requirements. Children are eligible for CMSP if they are

(1) a resident of Massachusetts, as defined in 130 CMR 503.002: Residence Requirements;

(2) younger than 19 years old;

(3) not otherwise eligible for any other MassHealth coverage type, other than MassHealth Limited. Children who are otherwise eligible and who are not receiving MassHealth coverage as a result of not complying with administrative requirements of MassHealth are not eligible for CMSP. Children who lose eligibility for MassHealth Family Assistance as a result of nonpayment of premiums or as a result of not enrolling in employer-sponsored health insurance through Premium Assistance are not eligible for CMSP; and

(4) uninsured. An applicant or member is uninsured if he or she

(a) does not have insurance that provides physician and hospital health-care coverage;

(b) has insurance that is in an exclusion period; or

(c) had insurance that has expired or has been terminated.

(D) Premiums. The premium schedule and payment policies for CMSP are described in 130 CMR 506.011: MassHealth and the Children's Medical Security Plan (CMSP) Premiums.

...

I agree with MassHealth that the only benefit for which the appellants qualify at this time is CMSP.

Other than using an incorrect household size, there was no error in MassHealth's decisions regarding the eligibility of child one and child two.

Therefore, this appeal is DENIED.

Order for MassHealth

Rescind aid pending for child two.

If MassHealth has not already done so, forward child disability supplements to the appellants for

them to complete and submit to MassHealth. When these completed supplements are submitted, determine whether the appellants are disabled within 90 days of the date(s) of submission.

If the appellants (one or both) are deemed disabled, notify each in writing of her eligibility for MassHealth CommonHealth, with appeal rights.

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.

Implementation of this Decision

If you experience problems with the implementation of this decision, you should report this in writing to your local MassHealth Enrollment Center, or to the Director of the Board of Hearings.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Nga Tran, appeals coordinator, Charlestown MEC