


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307360
Decision Date:	11/13/2023	Hearing Date:	09/29/2023
Hearing Officer:	Emily T. Sabo		

Appearance for Appellant:

Pro se & Father, 

Appearance for MassHealth:

Jesus Tijero, Quincy 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:	Denied	Issue:	Eligibility; Under 65
Decision Date:	11/13/2023	Hearing Date:	09/29/2023
MassHealth's Rep.:	Jesus Tijero	Appellant's Rep.:	Pro se & Father
Hearing Location:	Quincy Harbor South (Virtual)	Aid Pending:	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 11, 2023, MassHealth downgraded the Appellant's MassHealth Standard benefits to Health Safety Net because MassHealth determined that the Appellant no longer met the income requirements for the benefit (see 130 CMR 505.002-505.009; 130 CMR 506.001-506.004 and Exhibit 1). The Appellant filed this appeal in a timely manner on August 23, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Reduction of benefits is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth downgraded the Appellant's benefit from MassHealth Standard to Health Safety Net.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002, in reducing the Appellant's benefit from MassHealth Standard to Health Safety Net based on her income.

Summary of Evidence

The MassHealth representative appeared virtually at the hearing and testified as follows: the Appellant is an adult under the age of 65 has a household of four, consisting of another adult and two minor children. The MassHealth representative testified that the household has an income of \$2,998.40 biweekly. The MassHealth representative testified that the household income is 280.9% of the federal poverty level. The MassHealth representative testified that because the household income is more than 133% of the federal poverty level, the Appellant is not eligible for MassHealth Standard.

The MassHealth representative testified that the Appellant was eligible for MassHealth Standard beginning on December 31, 2016. The MassHealth representative testified that the Appellant's household income had previously been 83% of the federal poverty level, until August 2, 2021, when it increased to approximately 250% of the federal poverty level. The MassHealth representative testified that the household's MassHealth Standard coverage continued due to the declared public health emergency. The MassHealth representative testified that the Appellant's MassHealth Standard coverage ended on July 25, 2023.

The MassHealth representative testified that the children in the household are both eligible for MassHealth Family Assistance. The MassHealth representative testified that the Appellant had self-attested that she had a disability. The MassHealth representative testified that the Appellant may be eligible for MassHealth CommonHealth if she has a verified disability as determined by Disability Evaluation Services.

The Appellant and her father appeared at the hearing by telephone, and the Appellant verified her identity. The Appellant's father testified that the Appellant was hospitalized for one month in June 2020 and that the Appellant has Type 1 diabetes. The Appellant was interested in her MassHealth Standard continuing while she pursues applying for CommonHealth. The Appellant's father testified that she had phoned and been told that her coverage would continue pending her appeal. The Appellant's father testified that the Appellant had called within ten days of receiving the July 11, 2023, notice. He testified that the Appellant was told that if she applied for disability status that would end her MassHealth Standard coverage, and that her MassHealth Standard coverage would continue during her appeal.

Findings of Fact

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

1. The Appellant is an adult under the age of 65, who has a household size of four (Testimony).
2. The Appellant's household consists of two adults and two minor children (Testimony).

3. The Appellant's household income is \$2,998.40 biweekly (Testimony).
4. The Appellant's household income is 280.9% of the federal poverty level (Testimony).
5. On August 2, 2021, the Appellant's household income was approximately 250% of the federal poverty level (Testimony).
6. Through a notice dated July 11, 2023, MassHealth notified the Appellant that her MassHealth Standard benefits would end on July 25, 2023 (Exhibit 1).
7. The Appellant filed her appeal with the Board of Hearings on August 23, 2023 (Exhibit 2).

Analysis and Conclusions of Law

The MassHealth regulations provide for eligibility for MassHealth Standard for parents and caretaker relatives at 130 CMR 505.002(C):

(C) Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

(b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and

(c) 1. the parent lives with their children, and assumes primary responsibility for the child's care, in the case of a parent who is separated or divorced, has custody of their children, or has children who are absent from home to attend school; or

2. the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M).

130 CMR 505.002(C).

The MassHealth regulations provide for extended eligibility for MassHealth Standard at 130 CMR 505.002(L):

(3) Members of a MassHealth MAGI household who receive MassHealth Standard (whether or not they receive TAFDC) and have earnings that raise the MassHealth MAGI household's modified adjusted gross income above 133% of the federal poverty level (FPL) continue to

receive MassHealth Standard for a full 12-calendar-month period that begins with the date on which the members MAGI exceeds 133% of the federal poverty level (FPL) if

- (a) the MassHealth household continues to include a child younger than 19 years old living with the parent or caretaker;
- (b) a parent or caretaker relative continues to be employed;
- (c) the parent or caretaker relative complies with 130 CMR 505.002(M); and
- (d) the member is a citizen or a qualified noncitizen.

130 CMR 505.002(L)(3).

Here, the Appellant did not dispute that her household has a biweekly income of \$2,998.40, which is 280.9% of the federal poverty level. Accordingly, under 130 CMR 505.002(C)(1)(a), the Appellant is not eligible for MassHealth Standard as her income is greater than 133% of the federal poverty level. Therefore, MassHealth did not err in ending the Appellant's MassHealth Standard benefits, and the appeal is denied.

Under 130 CMR 505.002(L)(3), parents and caretakers may continue to be eligible for MassHealth Standard for the 12-calendar-month period after the members' modified adjusted gross income exceeds 133% of the federal poverty level. The MassHealth representative testified that the Appellant's modified adjusted gross income exceeded 133% of the federal poverty level beginning August 2, 2021. If the Appellant met the other requirements of 130 CMR 505.002(L)(3), the Appellant would be eligible for MassHealth Standard through August 2022. The Appellant's MassHealth Standard coverage ended on July 25, 2023. Thus, due to the public health emergency, the Appellant continued to receive MassHealth Standard benefits for longer than the 12-calendar-month period after her modified adjusted gross income exceeded 133% of the federal poverty level.

The MassHealth Fair Hearing regulations provide for the continuation of benefits pending appeal at 130 CMR 610.036(A):

When the appealable action involves the reduction, suspension, termination, or restriction of assistance, such assistance will be continued until the BOH decides the appeal or, where applicable, the rehearing decision is rendered if the BOH receives the initial request for the fair hearing before the implementation date of the appealable action. If such appealable action was implemented before a timely request for a hearing, such assistance will be reinstated if the BOH receives the request for the fair hearing within ten days of the mailing of the notice of the appealable action. If the hearing officer's decision is adverse to the appellant, the appealable action will be implemented immediately, except as provided in 130 CMR 610.091(D).

The Appellant seeks to continue her MassHealth Standard benefits during her appeal. The Appellant filed her appeal with the Board of Hearings on August 23, 2023. The appealable action at issue—MassHealth’s ending of the Appellant’s MassHealth Standard benefit—was implemented on July 25, 2023, prior to the Appellant’s request for a hearing. The Appellant did not provide any evidence that her August 23, 2023, appeal was filed within ten days after the notice of the appealable action—dated July 11, 2023—was mailed. Therefore, because the Board of Hearings did not receive the Appellant’s request for a fair hearing within ten days of the mailing of the notice, or before her benefit was terminated on July 25, 2023, unfortunately, she is not eligible for aid pending appeal.¹ Her request for aid pending appeal is denied.

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.

Emily T. Sabo
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

¹ Although crediting the Appellant and her father’s testimony that they received contrary information during a phone call that Appellant would continue to receive MassHealth Standard pending her appeal, the Fair Hearing Rules do not authorize hearing officers to issue decisions based on fairness or equity. See 130 CMR 610.082. A hearing officer’s decision must be rendered in accordance with the law and may be based only upon “evidence, testimony, materials, and legal rules presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” *Id.*