

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2307738
<b>Decision Date:</b>	10/10/2023	<b>Hearing Date:</b>	10/6/2023
<b>Hearing Officer:</b>	Cynthia Kopka		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Monica Ramirez, Quincy



*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, income
<b>Decision Date:</b>	10/10/2023	<b>Hearing Date:</b>	10/6/2023
<b>MassHealth's Rep.:</b>	Monica Ramirez	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy (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

By notice dated August 3, 2023, MassHealth determined that Appellant did not qualify for MassHealth benefits. Exhibit 1. Appellant filed this appeal in a timely manner on August 30, 2023. Exhibit 2. 130 CMR 610.015(B). Denial of assistance is a valid basis for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth determined that Appellant did not qualify for MassHealth benefits.

### Issue

The appeal issue is whether MassHealth was correct in determining that Appellant did not qualify for MassHealth benefits due to her income.

### Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of one. On August 3, 2023, Appellant updated her income to MassHealth after starting a new job. Appellant reported that she works 40 hours per week and makes \$2,874 every two

weeks. MassHealth determined that Appellant's income is 549% of the federal poverty level (FPL). Accordingly, Appellant did not qualify for a MassHealth benefit but was eligible for a Health Connector plan. The MassHealth representative confirmed that a Disability Evaluation Service (DES) evaluation is pending review.

Appellant appeared by phone and testified as follows. Appellant did not dispute the income amount. Appellant is currently enrolled in the Health Connector but has to pay over \$800 a month for a premium. This is a hardship for Appellant, as her gross income is significantly reduced by tax deductions and other expenses. Appellant is awaiting the DES determination. Appellant asked about retroactive reimbursement if she is determined to be disabled.

## Findings of Fact

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

1. Appellant is in a household of one with a gross income of \$2,874 biweekly.
2. Appellant is under the age of 64.
3. In 2023, the monthly FPL for a household of one was \$1,215; 133% of the FPL was \$1,616; and 150% of the FPL was \$1,823.
4. On August 3, 2023, MassHealth determined that Appellant not eligible for MassHealth benefits based on her income. Exhibit 1.
5. Appellant filed this timely appeal on August 30, 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.

Here, the undisputed evidence demonstrates that Appellant's income is 549% of the FPL, which is higher than the 133% limit to qualify for an adult coverage type such as MassHealth Standard and MassHealth CarePlus. See, e.g., 130 CMR 505.002 and 505.008(A)(2)(c). Accordingly, Appellant's household income is too high to be eligible for a MassHealth benefit. Appellant's eligibility may change based on the outcome of the DES evaluation. This 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.

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Cynthia Kopka  
Hearing Officer  
Board of Hearings

cc:

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