

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2307909
<b>Decision Date:</b>	10/2/2023	<b>Hearing Date:</b>	09/20/2023
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Ana Duverge-Roy

**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
<b>Decision Date:</b>	10/2/2023	<b>Hearing Date:</b>	09/20/2023
<b>MassHealth's Rep.:</b>	Ana Duverge-Roy	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Video via Teams	<b>Aid Pending:</b>	Yes

### Authority

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

### Jurisdiction

On August 24, 2023, MassHealth issued a notice informing the appellant that she is no longer eligible for MassHealth CarePlus as she no longer meets the income requirements for the benefit, and it was temporarily protected due to a public health emergency. (130 CMR 502.000; 130 CMR 505.000; Exhibit 1). The appellant filed a timely appeal on September 5, 2023. (130 CMR 610.015; Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that she is no longer eligible for MassHealth CarePlus as she no longer meets the income requirements for the benefit, and it was temporarily protected due to a public health emergency.

### Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility for MassHealth CarePlus.

## Summary of Evidence

When making the initial eligibility decision, MassHealth considered the appellant as a family group of one with monthly earned income of \$2,773 which placed her at 223% percent of the federal poverty level when including a 5% disregard of \$60.75 as required under the regulations. At hearing, the MassHealth representative noted that the appellant has a domestic partner who receives earned income in the amount of \$2,184 each month. The MassHealth representative noted that this monthly income placed the appellant's partner at 174% of the federal poverty level when including a 5% disregard of \$60.75.

The appellant did not dispute the income information presented by MassHealth. The appellant testified that she was eligible for MassHealth CarePlus in the past and did not agree with the change in coverage as her circumstances have not changed within the last year. The appellant argued that MassHealth should consider monthly expenses such as rent, utility bills and food in determining eligibility. The MassHealth representative noted that the appellant is eligible for a Connector Plan. The appellant responded that she could not afford to enroll in a Connector Plan while also paying for expenses such as rent and food. The appellant noted that her employer does not offer insurance.

As discussed at the hearing, at the beginning of the COVID-19 public health emergency (PHE), the federal government issued continuous coverage requirements for MassHealth. (MassHealth Eligibility Operations Memo 20-09; MassHealth Eligibility Operations Memo 23-13). Since March 2020, MassHealth put protections in place so that individuals receiving Medicaid would generally not lose their coverage unless they voluntarily withdrew, moved out of state, or passed away. (MassHealth Eligibility Operations Memo 20-09; MassHealth Eligibility Operations Memo 23-13). These continuous coverage requirements ended April 1, 2023. (Eligibility Operations Memo 23-13). Therefore, as of April 2, 2023, MassHealth began to redetermine all members to ensure they still qualify for their current benefits. This agency action resulted in a decision that the appellant is no longer eligible for MassHealth.

The appellant did not present evidence or testimony regarding expenses that MassHealth can consider in determining eligibility such as student loan interest or higher education tuition and fees.

## Findings of Fact

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

1. The appellant is an adult over the age of 19 who does not have children under the age of 19, is not HIV positive, and has not been deemed disabled or medically frail.
2. In determining eligibility, MassHealth considered the appellant as a family group of one.

3. The appellant is employed and has a monthly gross income of \$2,773.

## **Analysis and Conclusions of Law**

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). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- 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.

The appellant does not have any children and has not been deemed disabled by MassHealth or the Social Security Administration. The only program that the appellant meets the categorical requirements for is CarePlus.

MassHealth CarePlus provides coverage to adults 21 through 64 years of age. (13 CMR 505.008(A)(1)). Persons eligible for MassHealth CarePlus must meet the following conditions:

- (a) The individual is an adult 21 through 64 years of age.

- (b) The individual is a citizen, as described in 130 CMR 504.002: U.S. Citizens, or a qualified noncitizen, as described in 130 CMR 504.003(A)(1): Qualified Noncitizens.
- (c) The individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.
- (d) The individual is ineligible for MassHealth Standard.
- (e) The adult complies with 130 CMR 505.008(C). (f) The individual is not enrolled in or eligible for Medicare Parts A or B.

Financial eligibility for MassHealth includes household composition, countable income, deductibles, calculation of premiums, and copayments for all coverage types. (130 CMR 506.001). MassHealth determines household size at the individual member level. (130 CMR 506.002). 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. (130 CMR 506.002(B)(1)).

The appellant did not provide testimony or evidence to dispute that she files taxes or has individuals that she expects to claim as tax dependents. (130 CMR 506.002(B)(1)). While the appellant lives with a domestic partner, the regulations speak to an individual and their spouse as considered part of the same household. A spouse is defined as a person married to the applicant or member according to the laws of the Commonwealth of Massachusetts. (130 CMR 501.000). The testimony and evidence presented by both parties did not indicate that the appellant is married under the laws of the Commonwealth of Massachusetts. Therefore, MassHealth was correct in determining eligibility for the appellant as a household of one.

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. (130 CMR 506.007). Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007). As noted above, in this case the only income to consider is that of the appellant.

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth MAGI households. (130 CMR 506.007). 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). (130 CMR 506.007). Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007).

The appellant's earned income forms the basis for establishing her eligibility for MassHealth. The regulations include definitions of different types of earned income:

- (1) Earned income is 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. (130 CMR 506.003(A)).

The appellant's compensation for work meets the definition of earned income.

MassHealth allows the following deductions from countable income when determining MAGI:

- 1) educator expenses;
- 2) reservist/performance artist/fee-based government official expenses;
- 3) health savings account;
- 4) moving expenses;
- 5) self-employment tax;
- 6) self-employment retirement account;
- 7) penalty on early withdrawal of savings;
- 8) alimony paid to a former spouse;
- 9) individual retirement account (IRA);
- 10) student loan interest; and
- 11) higher education tuition and fees. (130 CMR 506.003(D)).

The appellant did not present evidence of any of these expenses or deductions for MassHealth to consider. (130 CMR 506.003(D)).

In determining monthly income, MassHealth averages weekly income by 4.333. (130 CMR

506.007(A)). 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. (130 CMR 506.007(A)). In this case, five percentage points of the federal poverty level for a family group of one is \$60.75. In deducting \$60.75 from the appellant's gross household income of \$2,773, the appellant has countable income of \$2,712.25 which places her at 223% of the federal poverty level. As noted above, to be eligible for CarePlus, an individual's modified adjusted gross income must be less than or equal to 133% of the federal poverty level. As the appellant's income exceeds this amount, the decision made by MassHealth was correct.

This appeal is denied.

## **Order for MassHealth**

Release the appellant's aid pending to implement the eligibility decision on appeal.

## **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.

---

Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186