

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2308060
<b>Decision Date:</b>	11/30/2023	<b>Hearing Date:</b>	09/25/2023
<b>Hearing Officer:</b>	Mariah Burns	<b>Record Open to:</b>	11/3/2023

**Appearance for Appellant:**



**Appearance for MassHealth:**

Carolyn Rivera, Springfield MassHealth  
Enrollment Center



*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>	Approved	<b>Issue:</b>	Under 65; Disabled Adult; Household Size; Fair Hearing Rules
<b>Decision Date:</b>	11/30/2023	<b>Hearing Date:</b>	09/25/2023
<b>MassHealth's Rep.:</b>	Carolyn Rivera	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	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 notices dated August 24, 2023, MassHealth downgraded the appellant's MassHealth benefits because MassHealth determined that his son is not a part of his household, and he therefore no longer qualifies for MassHealth Standard and the Medicare Buy-In. *See* 130 CMR 506.002 and Exhibit 1. The appellant filed this appeal in a timely manner on September 5, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Determination of the scope and amount of assistance is valid grounds for appeal *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth downgraded the appellant's benefits from MassHealth Standard and the Medicare Buy-In to MassHealth CommonHealth and imposed a \$15 per month premium.

### Issue

The appeal issue is whether MassHealth correctly determined that the appellant's son can no longer be counted as part of the appellant's household in establishing his financial eligibility for

benefits.

## Summary of Evidence

The appellant is a MassHealth member who is a Disabled Adult under the age of 65. He presented at hearing with the assistance of his mother. MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center. All parties participated in the hearing by video conference. The following is a summary of the testimony given and evidence presented at hearing.

The MassHealth representative reported that, prior to the issuance of the notice at hand, the appellant was active on MassHealth Standard and the Medicare Buy-In, having been found to reside in a household of two with his son who is under the age of 19. On August 24, 2023, the appellant's son was removed from the appellant's household and was added to the appellant's ex-wife's MassHealth application. This was in part due to a divorce decree which stated that the ex-wife was entitled to claim the son as a tax dependent and that the son will be going to school from the ex-wife's address. The MassHealth representative reported that there was additional documentation that the ex-wife submitted as a part of her MassHealth application that led to the decision to remove the son from the appellant's household. The MassHealth representative stated that she agreed that such documentation would be relevant to this appeal, but that her superiors prohibited her from submitting it as evidence in this case out of concern for the ex-wife's privacy interests.

The appellant's ability to communicate at hearing was limited by ongoing medical issues. His mother appeared with him to assist and provide corroborating testimony. Both the appellant and his mother testified that the divorce decree in question has nothing to do with physical custody of the son, only that the parties share legal custody. They both testified that the son resides with the appellant and that the appellant entirely provides for the son. They agreed that they use the mother's address for purposes of him attending school. The appellant also provided documentation supporting their testimony that the son resides with the appellant. See Exhibit 5 at 3-11, 18-23.

The hearing record was kept open, and the hearing officer ordered MassHealth to provide "any and all documentation upon which MassHealth relied to determine that [the appellant's son], is counted as part of the household of [the appellant's ex-wife]." Exhibit 6 at 3. At the expiration of the record open period, the MassHealth representative reported that, according to the MassHealth Privacy Unit, she was unable to provide the ordered records. *Id.* at 1.

## Findings of Fact

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

1. The appellant is a Disabled Adult under the age of 65. Exhibit 1 at 3, Exhibit 4, Testimony.
2. Prior to the issuance of the notice on appeal, the appellant was active on MassHealth Standard and the Medicare Buy-In, and MassHealth considered him to reside in a household of two with his son who is under the age of 19. Exhibit 1 at 1, 3, Testimony.
3. On August 24, 2023, the appellant's son was removed from the appellant's household calculation based on documentation provided by the appellant's ex-wife in her own application for MassHealth benefits. Despite an order to produce from the Hearing Officer, that documentation was not provided by MassHealth as evidence in this appeal. Exhibit 1 at 1,3, Exhibit 6 at 1,3, Testimony.
4. As a result of the change in his household size, MassHealth determined the appellant to no longer be financially eligible for MassHealth Standard and the Medicare Buy-In and downgraded his coverage to MassHealth CommonHealth with a \$15.00 per month premium. Exhibit 1 at 3-4, Testimony.
5. The appellant filed a timely appeal on September 5, 2023. Exhibit 2.
6. The appellant's son resides with the appellant full-time. Testimony, Exhibit 5 at 3-11, 18-23.

## **Analysis and Conclusions of Law**

The rules that govern fair hearings are found at 130 CMR 610. An appellant typically has the burden of proof at such hearings "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon "evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency's interpretation of its rules, policies and regulations." 130 CMR 610.082(A) and (B). However, the Fair Hearing Rules place certain rights and responsibilities upon the acting entity. *See generally* 130 CMR 610.062. Among such responsibilities is the obligation of the acting entity to "submit to the hearing officer at or before the hearing *all* evidence on which any action at issue is based." *Id.* at 610.062(A) (emphasis added). The hearing officer may "in any case require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter." 130 CMR 610.071(F).

In determining financial eligibility for MassHealth members and applicants under the age of 65, MassHealth reviews the person's "household composition, countable income, deductibles, calculation premiums, and copayments for all coverage types." 130 CMR 506.001(A). Household size is determined at the individual member level in one of two ways: Modified Adjusted Gross

Income (MAGI) Household, and Disabled Adult Household. *Id.* at 506.002(A). MassHealth uses the MassHealth Disabled Adult composition rules to determine eligibility for MassHealth Standard for the relevant members and applicants. *Id.* at 506.002(A)(2)(a). A Disabled Adult's household consists of "the individual...the individual's spouse if living with them...the individual's natural, adopted, and stepchildren younger than 19 years old if living with them...and...if any [such] individual...is pregnant, the number expected children." *Id.* at 506.002(C).

Here, MassHealth did not comply with its obligations under 130 CMR 610.062. At hearing, the MassHealth representative reported that the appellant's child was removed from his household based on documentation provided by the appellant's ex-spouse within her application for benefits. MassHealth refused to provide such documentation, even when lawfully ordered by the hearing officer pursuant to 130 CMR 610.071(F). On that basis alone, the appeal is approved.

I further find that the appellant has met his burden of proof to demonstrate that his son is a part of his household as a Disabled Adult. The regulations make clear that household size is calculated "at the individual member level." 130 CMR 506.002(A). Thus, the appellant's household size must be verified based on his circumstances alone. His eligibility for MassHealth CommonHealth demonstrates that he qualifies as a Disabled Adult, requiring his household to be determined pursuant to 130 CMR 506.002(C). I credit the appellant's testimony, the testimony of his mother, and his supporting documentation that the appellant's son is under the age of 19 and resides with him full-time. As such, I find that the appellant's son should have been included as part of the appellant's household for purposes of determining the appellant's financial eligibility for MassHealth Standard and the Medicare Buy-In.<sup>1</sup> Because there is no dispute as to the appellant's financial eligibility for MassHealth Standard and the Medicare Buy-In if his household size is correctly calculated, I find that the appellant should be receiving those benefits when his son is rightly considered a part of his household.

For the foregoing reasons, I find that the appellant has met his burden of proof that the August 24, 2023, termination notice was issued in error, and the appeal is hereby APPROVED in full.

## **Order for MassHealth**

Reinstate the appellant's MassHealth Standard and Medicare Buy-In benefits retroactive to the termination date of September 7, 2023, to ensure no gap in coverage.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should

---

<sup>1</sup> I make no finding as to whether the son was rightly included in the ex-wife's household composition calculation.

contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

---

Mariah Burns  
Hearing Officer  
Board of Hearings

cc:

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

Michael Levine, Medicaid Director  
Sharon Boyle, Esq., EOHHS General Counsel  
Michael Capuano, Esq., Board of Hearings Counsel