

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308282
Decision Date:	11/21/2023	Hearing Date:	10/27/2023
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kristina Nessralla, 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

Appeal Decision:	Denied	Issue:	Eligibility; under 65; income
Decision Date:	11/21/2023	Hearing Date:	10/27/2023
MassHealth's Rep.:	Kristina Nessralla	Appellant's Rep.:	Pro se
Hearing Location:	Quincy (remote)	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

By notice dated August 23, 2023, MassHealth downgraded Appellant's eligibility from MassHealth CarePlus to Health Safety Net effective September 30, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on September 11, 2023. Exhibit 2. 130 CMR 610.015(B). Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded Appellant's eligibility from MassHealth CarePlus to Health Safety Net effective September 30, 2023.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant no longer qualified for MassHealth CarePlus benefits due to income.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of one. Appellant had previously qualified for MassHealth's CarePlus benefit on December 30, 2016. Due to the Covid-19 protection, Appellant remained on the CarePlus coverage through the end of the public health emergency despite any income increases. Upon renewal after the emergency ended, Appellant reported her weekly gross income to be \$483. On August 23, 2023, MassHealth downgraded Appellant's coverage from CarePlus to Health Safety Net, finding that Appellant's income was 138.1% of the federal poverty level (FPL). Exhibit 1. Appellant is eligible for a Health Connector plan with a tax credit and subsidy.

Appellant appeared by phone and testified as follows. Appellant argued that her net income is only \$383.64 and disputed that MassHealth should determine based on the gross amount. Appellant has high monthly living expenses and medical needs. Appellant cannot pick up her inhaler at the pharmacy as it will cost her over \$400. Appellant's primary care physician gave her alternative treatment to last her until her insurance begins in November, but Appellant was reluctant to try something new and unknown. Appellant argued that it was unfair that she was terminated for receiving a raise of 30 cents. Appellant enrolled in a Health Connector plan which will not start until November 1. Appellant is without insurance until then.

The MassHealth representative provided information on pharmacies in neighboring towns and cities to Appellant's which will accept Appellant's Health Safety Net. Appellant declined, saying it would be inconvenient to go to neighboring cities and towns. Appellant argued that her fuel assistance is dependent on this MassHealth hearing, and that she may lose eligibility for discounts on other bills. Appellant submitted documents in support of her position, including paystubs and prior MassHealth approval notices. Exhibit 4.

Findings of Fact

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

1. Appellant is in a household of one and under the age of 64.
2. Appellant reported her weekly gross income to be \$483.
3. In 2023, the monthly FPL for a household of one was \$1,215; 133% of the FPL was \$1,616.
4. On August 23, 2023, MassHealth downgraded Appellant's eligibility from MassHealth CarePlus to Health Safety Net effective September 30, 2023. Exhibit 1.
5. Appellant filed this timely appeal on September 11, 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.

An adult under the age of 64 is eligible for MassHealth's CarePlus benefit if their income at or below 133% of the FPL. 130 CMR 505.008(A)(2)(c). MassHealth determines monthly income by multiplying weekly income by 4.333. 130 CMR 506.007(A)(2)(c).

Here, Appellant's weekly gross income was \$483. Multiplied by 4.333, this is \$2,092.84 per month or \$25,114.07 yearly. This is higher than the 133% limit to qualify for MassHealth CarePlus. Accordingly, Appellant's income is too high to be eligible for a MassHealth benefit. Accordingly, MassHealth's downgrade of benefits was correct, and the appeal is denied.

Appellant's request for hearing was received by the Board of Hearings on September 11, 2023, prior to her CarePlus terminating on September 30, 2023. According to 130 CMR 610.036(A), "[w]hen the appealable action involves the reduction, suspension, termination, or restriction of assistance, such assistance will be continued until the BOH decides the appeal." Appellant appealed a reduction in coverage prior to the action being implemented and therefore should have had her benefits continued until the date of hearing. MassHealth should provide retroactive aid pending benefits from October 1, 2023 to the date of this decision.

Order for MassHealth

Reinstate Appellant's CarePlus benefit from September 30, 2023 to the date of decision.

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

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

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