

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2308612
<b>Decision Date:</b>	1/11/2024	<b>Hearing Date:</b>	11/21/2023
<b>Hearing Officer:</b>	Cynthia Kopka		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Jeffrey Pamphile, Charlestown



*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>	1/11/2024	<b>Hearing Date:</b>	11/21/2023
<b>MassHealth's Rep.:</b>	Jeffrey Pamphile	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Charlestown (virtual)	<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 23, 2023, MassHealth approved Appellant for MassHealth Standard effective August 13, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on September 19, 2023. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved Appellant for MassHealth Standard effective August 13, 2023.

### Issue

The appeal issue is whether Appellant is entitled to relief due to a MassHealth error.

### Summary of Evidence

The MassHealth representative appeared at virtual hearing and testified as follows. On August 23, 2023, MassHealth approved Appellant for MassHealth Standard effective August 13, 2023. Prior to this approval, Appellant had been on a Health Connector plan. Appellant is under 65 and is head of

a household of four, married filing jointly with his spouse. The most recent eligibility update was based on Appellant's reported income being zero, with eligible deductions of \$11,500 due to penalties incurred for early withdrawal of savings. Appellant's spouse has seasonal income for 10 months as an educator, making \$3,215 per month (or \$32,151.80 annually), with \$2,000 in allowable deductions for educator expenses and an IRA. The total annual household income is \$19,651.80, which is 65% of the federal poverty level (FPL). As a result, Appellant and his family are all eligible for MassHealth Standard.

Appellant appeared at virtual hearing and testified as follows. Appellant was laid off in December 2022. Appellant elected to continue his previous health insurance via COBRA, paying out of pocket for the premium from January to April 2023. Following this, Appellant logged into the Health Connector portal many times to update his income information. Despite these changes, the cost of his health insurance premium never went down. Appellant was not sure why the calculation did not change with these updates. Appellant made many attempts online to update this information and also called customer service at the Connector. During one call, a Connector representative noticed the administrative closure on Appellant's family's case but did not know what it was for or why it was implemented. The process to have the closure removed was for Appellant to call MassHealth directly and speak to someone to remove the closure and figure out what it was for. Appellant testified that the closure was initially removed for him individually but not for his family. It took more calls and back-and-forth to have the closure removed for everyone. After the closure was removed, Appellant updated his information online. The result was Appellant was approved for benefits with no cost, and had always been eligible for MassHealth. Instead of having MassHealth back in January when he was eligible, Appellant had to pay out of pocket for COBRA January through March 2023 and a high Health Connector premium beginning in April 2023. Appellant seeks relief in the out of pocket expenses he incurred as a result. Had Appellant been given the correct information at the beginning, Appellant would not have incurred expenses upwards of \$4,200.

MassHealth's representative verified that Appellant's testimony was accurate and that an administrative closure was left on the family's case in April 2023 in error. The administrative closure was for job/income update, which Appellant provided online on April 22, 2023. The update Appellant made online should have resulted in the removal of the closure, but the removal must be done manually by a representative. The MassHealth representative acknowledged that this is an error in MassHealth's system and it was MassHealth's fault.

On April 22, 2023, Appellant reported unemployment income totaling \$28,875 annually. His spouse reported \$2,979 in monthly seasonal income from her work in a nursery school. Based on these figures, Appellant's household income was 160% of the FPL, which is above the 133% limit to qualify for MassHealth Standard. Appellant's family would have qualified for a Health Connector subsidized plan with an approximate monthly premium of \$40. Due to the incorrect administrative closure, Appellant's family was assessed a much higher premium with an unsubsidized plan.

The MassHealth representative testified as to steps to remedy the error. MassHealth is not able to backdate the MassHealth Standard coverage because Appellant's family did not qualify until August 23, 2023. However, the MassHealth representative offered to put case notes on the account to show what would have been the correct determination between April 22, 2023 and August 22, 2023 without the erroneous administrative closure. The MassHealth representative testified that Appellant could reach out to the Health Connector's billing department once the case notes were updated to seek reimbursement of the overpaid premiums. Appellant understood, but expressed frustration of having to go through more hoops to correct the error.

After hearing, MassHealth shared additional correspondence. The MassHealth representative wrote that he updated Appellant's MassHealth case notes to indicate that the administrative closure should have been removed in April after Appellant updated his income. Based on the figures Appellant provided, Appellant's household was at 160% of the FPL, which would have qualified the family for a ConnectorCare Type 2B Plan, with a monthly premium of \$49. The MassHealth representative explained how to reach the Health Connector's billing department and/or request a Connector appeal if needed. Exhibit 4.

## Findings of Fact

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

1. Appellant is in a household of four and under the age of 65.
2. In 2023, the FPL for a household of four was \$2,500 monthly and \$30,000 yearly; 133% of the FPL was \$3,325 monthly and \$39,900 yearly.
3. On April 22, 2023, Appellant reported unemployment income totaling \$28,875 annually. His spouse reported \$2,979 in monthly seasonal income for 10 months of the year.
4. On April 22, 2023, Appellant's family qualified for a ConnectorCare Type 2B Plan, with a monthly premium of \$49.
5. On April 22, 2023, MassHealth failed to remove an administrative closure from Appellant's case that would have resulted in Appellant's family being approved for a ConnectorCare Type 2B Plan.
6. On August 23, 2023, Appellant reported that his household income was \$19,651.80 after allowable deductions.
7. On August 23, 2023, MassHealth approved Appellant and his family for MassHealth Standard effectively August 13, 2023. Exhibit 1.

8. Appellant filed a timely appeal on September 19, 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 a MassHealth benefit if their income at or below 133% of the FPL. *See, e.g., 130 CMR 505.002(C)(1)(a) and 505.008(A)(2)(c).*

The undisputed facts in this appeal show that Appellant qualified for MassHealth Standard effective August 13, 2023 based on the updated income provided on August 23, 2023. Though Appellant did not qualify for MassHealth Standard prior to August 23, 2023, MassHealth's error in failing to remove the administrative closure caused Appellant to incur a more expensive Health Connector premium than the ConnectorCare Type 2B premium he should have been assessed. This hearing decision documents MassHealth's acknowledgment of the error and its position that Appellant should be made whole. The MassHealth representative took measures to assist Appellant in seeking reimbursement from the Health Connector for the difference in the premiums Appellant paid due to the that mistake. As MassHealth's decisions regarding eligibility were correct, 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.

---

Cynthia Kopka  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129