

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308751
Decision Date:	10/31/2023	Hearing Date:	10/23/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:



Appearance for MassHealth:

Raisa Guzman

Interpreter:

Luma Montgomery, Portuguese



*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:	Under 65; Eligibility; Income
Decision Date:	10/31/2023	Hearing Date:	10/23/2023
MassHealth's Rep.:	Raisa Guzman	Appellant's Rep.:	Pro se
Hearing Location:	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

Through a notice dated September 14, 2023, MassHealth notified the appellant that he does not qualify for benefits because his income is too high. *See* 130 CMR 502.003 and Exhibit 1. The appellant filed this appeal in a timely manner on September 22, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied appellant's request for MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant's income exceeds the limit allowed by the regulations.

Summary of Evidence

The appellant is an adult under the age of 65 who resides with his partner and two minor children. He was represented at hearing by his partner. The MassHealth was represented by a worker from

the Charlestown MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and documentary evidence presented at hearing:

The MassHealth representative reported that the appellant's weekly income was verified at \$750, which equates to \$3225.00 per month, or 151.87% of the federal poverty level (FPL) for a household of three. She explained that the appellant and his partner are not legally married and filed taxes separately. Therefore, MassHealth calculated his household as being three, comprising of the appellant and his two biological children. The MassHealth representative testified that 133% of the federal poverty level for a household of three would reflect a monthly income of \$2756.00.

The appellant's representative confirmed that they filed taxes separately. She also agreed with the calculation of the appellant's weekly income. She reported that the couple were waiting to receive certain immigration documents to verify their status with MassHealth and asked if the appellant could be placed on MassHealth Limited if he does not qualify for Standard.

Findings of Fact

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

1. The appellant is an adult under the age of 65 who resides with partner and two minor children. Exhibit 1, Exhibit 4, Testimony.
2. The appellant and his partner are not legally married but share the two minor children in common. Testimony.
2. The appellant's weekly income is \$750.00 weekly, or \$3225.00 monthly. Exhibit 5, Testimony
3. On September 14, 2023, MassHealth denied the appellant's application for benefits because the appellant exceeds the income limit to qualify. Exhibit 1.
4. The appellant filed a timely appeal on September 22, 2023. Exhibit 2.
5. The appellant does not have any condition that would adjust his income requirements for MassHealth Standard, CarePlus, or Family Assistance. Testimony.
6. A monthly income at 133% of the federal poverty level equates to \$2756.00 for a household of three. Testimony, 2023 MassHealth Income Standards and Federal Poverty Level Guidelines.

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 particular 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) *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.

130 CMR 505.001(A).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. In this case, as a caretaker for his minor children, the appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether he meets the income requirements to qualify.

A parent or caretaker is financially eligible for MassHealth Standard if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.” 130 CMR 505.002(C)(1)(a). To determine financial eligibility pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

(1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. 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.

...

(3) Individuals Who Do Not File a Federal Tax Return and Are Not Claimed as a Tax Dependent on a Federal Tax Return. For an individual who does not expect to file a federal tax return and who does not expect to be claimed as a tax dependent on a federal tax return or when any of the exceptions described at 130 CMR 506.002(B)(2)(b)1., 2., or 3. apply, the household consists of

- (a) the individual;
- (b) the individual's spouse if living with them;
- (c) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them;
- (d) for individuals younger than 19 years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than 19 years old if living with them; and
- (e) if any individual described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children.

Here, there is some confusion about the appellant's household size. MassHealth reported that he filed taxes but did not report his children as dependents which, based on 506.002(B)(1), would indicate he resides in a household of two. However, MassHealth's indication that the children are biologically his implies that MassHealth relied on 506.002(B)(3) when determining his household size of three, which would mean that he did not file taxes. However, his household size is irrelevant for purposes of this appeal, as, for reasons stated herein, he is over income regardless of whether he resides in a household of one or three. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level for a household of

one equates to a monthly income of \$1616.00, while for a family of three it is \$2756.00.¹

MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking 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), less deductions described in 130 CMR 506.003(D). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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(C). Income of all the household members forms the basis for establishing an individual's eligibility. A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(K).

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. 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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

¹ See chart at <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

In this case, the appellant has a monthly income of \$3225.00. As that amount exceeds 133% of the poverty level for both a household of one and a household of three based on 2023 standards, the appellant is not eligible for MassHealth benefits. Therefore, MassHealth did not err in issuing the September 14, 2023 notice, and the appeal is denied.²

Order for MassHealth

None.

² The appellant's representative requested that the appellant be placed on MassHealth Limited in lieu of MassHealth Standard. As the income limits for MassHealth Limited are the same as those for MassHealth Standard, this request is denied. See 130 CMR 505.006(B)(1)(a)(4) (MassHealth Limited available to "adults 21 through 64 years old who are parents, caretakers, or adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL...").

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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