

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308815
Decision Date:	12/18/2023	Hearing Date:	10/24/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone
Pro se

Appearance for MassHealth:
Via telephone
Jonathon Gonzalez



*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; Over 65; Over income
Decision Date:	12/18/2023	Hearing Date:	10/24/2023
MassHealth's Rep.:	Jonathon Gonzalez	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Charlestown MassHealth Enrollment Center - Room 2 (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 her MassHealth benefits were terminating on September 28, 2023, because MassHealth determined that she had more countable income than MassHealth Standard or Limited benefits allow. (130 CMR 520.002; 520.0028; Exhibit 1). The Appellant filed this timely appeal on September 20, 2023. (130 CMR 610.015(B); Exhibit 2). Termination of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the Appellant that her MassHealth benefits were being terminated and calculated a six-month deductible based upon the Appellant's verified income.

Issue

The appeal issue is whether MassHealth was correct in notifying the Appellant that her

MassHealth benefits were ending because she was over the allowable income limits.

Summary of Evidence

The MassHealth representative appeared at the hearing *via* telephone and testified as follows: MassHealth received the Appellant's senior renewal application in June of 2023. In response, MassHealth sent the Appellant requests for additional information in July and August of 2023. The Appellant submitted additional documentation to MassHealth in August and September of 2023. On September 14, 2023, MassHealth determined that the Appellant was over the allowable income limits to receive MassHealth benefits, pursuant to its regulations. (See, Exhibit 1). The MassHealth representative explained that the Appellant's reported income is comprised of two (2) sources, namely, social security in the (gross) amount of \$994.90 per month and a monthly pension in the (gross) amount of \$2,192.26, for a total of \$3,187.16 per month. The Appellant's household is comprised of a family of one (1) which placed her at 267 percent of the Federal Poverty Level.

The Appellant appeared at the hearing telephonically. She testified that her monthly income figures were incorrect. The Appellant explained that she has been in contact with MassHealth for the past year to ensure that she submitted all requested documentation. The Appellant further explained that during one of her last telephone calls with MassHealth, she stated that her previous work employment shows a one-time Medicare reimbursement. However, the reimbursement that she receives is once per year and not once per month. As to her social security, the Appellant testified that she does not receive that amount because of tax deductions. Upon inquiry, the MassHealth representative confirmed that MassHealth calculates financial eligibility using the gross amounts of income before deductions. The Appellant confirmed that she grosses \$2,192.26 per month from her pension.

Further, the Appellant testified that she has received MassHealth benefits since 2010 upon her hospitalization for health-related issues. Due to said issues, she was unable to continue employment. The Appellant explained that she cannot afford to pay for the costs of health insurance, as she is frequently hospitalized. The Appellant further explained that she began receiving Medicare assistance upon turning the pertinent age. The Appellant expressed her concerns about residing alone with the inability to afford health care coverage. Upon further inquiry to the MassHealth representative, he explained that unfortunately the Appellant no longer qualifies for MassHealth coverage. He testified that the Appellant previously qualified for MassHealth CommonHealth coverage because she reported her disability as a working adult. However, her recent application received by MassHealth did not indicate that the Appellant was presently working, which is the reason that she received the September 14, 2023 cancellation notice. The MassHealth representative explained that the Appellant was previously protected under COVID which began in 2020. In response, the Appellant reiterated that she has received MassHealth benefits since 2010. The MassHealth representative testified that for the Appellant to retain her MassHealth CommonHealth (Disabled Working Adults) coverage, she would need to be employed.

The Appellant testified that she had to leave her employment due to her health issues. She explained that it is unfair that this is happening because she is growing older in age.

Findings of Fact

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

1. The Appellant is over the age of 65. (Exhibit 3).
2. On or about September 14, 2023, MassHealth notified the Appellant that MassHealth benefits were ending on September 28, 2023, because she has more countable income than MassHealth Standard or Limited benefits allow. (Testimony; Exhibit 1).
3. The Appellant timely appealed on September 20, 2023. (Exhibit 2).
4. The Appellant's income was calculated at \$3,187.16 per month, less a \$20.00 unearned income disregard, for a total of \$3,167.00 per month. (Testimony; Exhibit 1, p. 3).
5. The Appellant is a household of 1. (Testimony, Exhibit 1, p. 3).
6. MassHealth calculated a six-month deductible period based upon the Appellant's income. (Exhibit 1, p. 3).
7. The Appellant is eligible for Health Safety Net coverage. (Exhibit 1, p. 2).
8. The Appellant previously qualified for MassHealth CommonHealth coverage as a disabled working adult. (Testimony).
9. The Appellant is not presently employed. (Testimony).

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.002: Financial Responsibility, in the determination of eligibility for MassHealth, the total countable income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit, unless one spouse is covered by MassHealth under a home-and-community-based service waiver, as described in 130 CMR 519.007(B): *Home-and Community-based Services Waiver-Frail Elder*.

(130 CMR 520.002(A)(1)).

In accordance with 130 CMR 519.005: Community Residents 65 Years of Age or Older :

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable income amount, as defined in 130 CMR 520.009: Countable-income Amount, of the individual or couple is less than or equal to 100% of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(130 CMR 519.005(A)).

In the present case, the Appellant is over the age of 65. (See, Exhibit 3). There was no dispute that the Appellant is under the asset guidelines, so the question remains whether the Appellant's countable income limit is less than or equal to 100% of the Federal Poverty Level (hereinafter "FPL"). (See, 130 CMR 519.005(A)(1)).

Here, the Appellant comprises a household of one, with a countable income calculated at \$3,187.16 per month, less a \$20.00 unearned income disregard, for a total of \$ 3,167.00 per month. (See, Exhibit 1, p. 3). The monthly FPL limit for a household of 1 is \$ 1215.00.¹ Thus, the Appellant's income exceeds the FPL to receive MassHealth benefits.

With respect to MassHealth CommonHealth coverage as a disabled working adult, applicants must meet both the categorical and financial requirements to establish eligibility, as outlined below.

519.012: MassHealth CommonHealth

(A) Working Disabled Adults.

(1) Eligibility Requirements. MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age or older in the same manner as it is available to those younger than 65 years old. This means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3) and (5) to be eligible for CommonHealth.

(2) Other Provisions. The following provisions apply to CommonHealth applicants and members 65 years of age or older: 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2), and (N).

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(130 CMR 519.012(A)).

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

505.004: MassHealth CommonHealth

(A) Overview.

- (1) 130 CMR 505.004 contains the categorical requirements and financial standards for MassHealth CommonHealth coverage available to both disabled children and disabled adults, as to disabled working adults.
- (2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): *MassHealth CommonHealth*.

(130 CMR 505.004(A)).

(B) Disabled Working Adults. Disabled working adults must meet the following requirements:

- (1) to be 21 through 64 years old (for those 65 years of age or older, *see* 130 CMR 519.012: *MassHealth CommonHealth*);
- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;
- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: *Definition of Terms*;
- (4) be 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*;
- (5) be ineligible to receive MassHealth Standard; and
- (6) comply with 130 CMR 505.004(J).

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(130 CMR 505.004(B)).

(H) Determination of Disability. Disability is established by

- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
- (2) a determination of disability by the SSA; or
- (3) a determination of disability by the Disability Evaluation Services (DES).

(130 CMR 505.004(H)).

(I) MassHealth CommonHealth Premium. Disabled adults, disabled working adults, disabled young adults, and disabled children who meet the requirements of 130 CMR 505.004 may be assessed a premium in accordance with the premium schedule provided in

130 CMR 506.011(B)(2). No premium is assessed during a deductible period.

(130 CMR 505.004(I)).

(J) Use of Potential Health Insurance benefits. Applicants and members must use potential health insurance benefits, in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, and must enroll in health insurance, including Medicare, if available at not greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by the MassHealth agency in accordance with 130 CMR 505.002(O), and 130 CMR 506.012: *Premium Assistance Payments*. Members must access those other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

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(130 CMR 505.004(J)).

(M) Medicare Coverage Date.

(1) The medical coverage date for MassHealth CommonHealth is described at 130 CMR 502.006: *Coverage Dates*, except as described at 130 CMR 505.004(M)(2) and (3).

(2) Persons described in 130 CMR 505.004(C) who have been notified by the MassHealth agency that they must meet a one-time deductible have their medical coverage date established in accordance with 130 CMR 506.009(E): *Notification of the Deductible*.

(3) Provisional eligibility is described in 130 CMR 502.003(E): *Provisional Eligibility*.

(130 CMR 505.004(M)).

(N) Extended CommonHealth Coverage. MassHealth CommonHealth members (described in 130 CMR 505.004(B)) who terminate their employment, continue to be eligible for MassHealth CommonHealth for up to three calendar months after termination of employment provided they continue to make timely payments of monthly premiums.

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(130 CMR 505.004(N)).

Here, there was no dispute at the hearing that the Appellant is a disabled adult over the age of 65. The issue, as discussed at the hearing, surrounded the Appellant's recent application that she submitted which did not report current employment. At the hearing, the Appellant testified that she was unable to continue with her employment. While her reasoning for such is certainly understandable, unfortunately, the regulations require that to receive MassHealth CommonHealth benefits as a disabled working adult, "to be employed at least 40 hours per month, or if employed

less than 40 hours per month, have been employed at least 240 hours per month in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review." (See, 130 CMR 505.004(B)). Therefore, MassHealth was correct in determining that the Appellant does not presently qualify for MassHealth benefits. As such, this appeal is denied.²

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

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

² This denial does not preclude the Appellant from contacting the Health Safety Net regarding potential coverage if she so chooses, at 1-877-910-2100. Further, this denial does not preclude the Appellant from contacting MassHealth to report any changes surrounding her income or her employment status. Finally, this denial does not preclude the Appellant from ascertaining whether she can subsequently meet the pertinent requirements outlined above to obtain MassHealth benefits.