

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2308843
<b>Decision Date:</b>	10/30/2023	<b>Hearing Date:</b>	10/24/2023
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Georges Jorcelin, Charlestown 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>	Denied	<b>Issue:</b>	Under 65; Eligibility; Income
<b>Decision Date:</b>	10/20/2023	<b>Hearing Date:</b>	10/24/2023
<b>MassHealth's Rep.:</b>	Georges Jorcelin	<b>Appellant's Rep.:</b>	Pro se
<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 a notice dated September 24, 2023, MassHealth notified the appellant that she does not qualify for benefits because her income is too high. *See* 130 CMR 502.003 and Exhibit 1. The appellant filed this appeal in a timely manner on September 25, 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 in a household of five with her four children, two of whom are minors, and two of whom are adults. 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:

MassHealth verified the appellant's total household income as being \$16,345.00 per month, which is 604% of the federal poverty level. The MassHealth representative testified that 133% of the federal poverty level for a family of 5 equates to a monthly income of \$3895.00. The appellant is widowed and reported that she and her two minor children each receive \$2100.00 per month in her late husband's Social Security death benefits totaling \$6300.00. Her two oldest children are in college and have part-time jobs to subsidize their own living expenses. The appellant herself also has a part-time job making approximately \$21.00 per hour and working, on average, 20 hours per week, which equates to, on average, \$1806.00 per month.

The worker and the appellant discussed an account that the appellant reported that accounted for over \$70,000 in yearly income in MassHealth's income calculation. The appellant was advised by the worker to submit revised documentation related to the account if there is something inaccurate about the way it was calculated.

## **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 in a household of five with her two minor children and two adult children. Testimony.
2. The appellant and her two minor children each receive \$2100.00 in Social Security death benefits from the appellant's late husband, totaling \$6300.00 per month. The appellant also works part-time making, on average, \$1806.00 per month, and her adult children work part-time. Testimony
3. On September 24, 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 25, 2023. Exhibit 2.
5. The appellant does not have any condition that would adjust her income requirements for MassHealth Standard, CarePlus, or Family Assistance. Testimony.
6. A monthly income at 133% of the federal poverty level equates to \$3895.00 for a family of five. 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 her minor children, the appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether she 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.

Here, the appellant does not dispute that she resides in a household of five. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level is equates to a monthly income of \$3895.00 for a household of that size. See *chart* at <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

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.

(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.

Per 130 CMR 506.003(A), countable income includes, in relevant part, “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.” Countable 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 taxes refund of a tax you deducted the previous year, and gross gambling income.” 130 CMR 506.003(B)(2).

130 CMR 506.004 details the forms of income that MassHealth considers noncountable, which includes:

- (L) income from children and tax dependents who are not expected to be required to file a tax return under *Internal Revenue Code*, U.S.C. Title 26, § 6012(a)(1) for the taxable year in which eligibility for MassHealth is being determined, whether or not the children or the tax dependents files a tax return; and
- (M) any other income that is excluded by federal laws other than the Social Security Act.

As the appellant’s children would be required to pay taxes on the Social Security death benefits pursuant to U.S.C. Title 26, § 6012(a)(1), their income is still considered taxable, and is therefore countable for purposes of MassHealth.

In this case, the appellant and her minor children have \$6300.00 monthly income based on the social security benefits alone. As that amount exceeds 133% of the poverty level based on 2023 standards, the appellant is not eligible for MassHealth benefits. Therefore, MassHealth did not err in issuing the September 24, 2023 notice, and the 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.

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Mariah Burns  
Hearing Officer  
Board of Hearings

cc:

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