

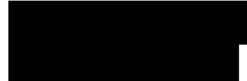
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2309125
Decision Date:	11/07/2023	Hearing Date:	10/30/2023
Hearing Officer:	David Jacobs		

Appearances for Appellant:



Appearances for MassHealth:

Cathy Tobin, Tewksbury MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Eligibility; Over Income
Decision Date:	11/07/2023	Hearing Date:	10/30/2023
MassHealth Rep.:	Cathy Tobin	Appellant Rep.:	
Hearing Location:	Board of Hearings (Remote)		

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 19, 2022, MassHealth notified the appellant that he is not eligible for MassHealth benefits because his income is too high (Exhibit 1). The appellant filed a timely appeal on September 29, 2023 (Exhibit 2). The denial of assistance is a valid ground for appeal (130 CMR 610.032(A)).

Action Taken by MassHealth

MassHealth notified the appellant that he is not eligible for MassHealth benefits because his income is too high.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth benefits?

Summary of Evidence

The MassHealth representative appeared at hearing by telephone and testified in summary as follows: The appellant is a household of one with a monthly income from an accidental disability pension in the amount of \$3,743.64 gross. This information was updated by the appellant on September 19, 2023. This income places the appellant at 300.44% of the federal poverty level (FPL), which places him above the 300% of the FPL necessary for the appellant to be eligible for Partial Health Safety Net.

The appellant appeared at hearing by telephone along with his attorney. The appellant's attorney confirmed that the \$3,743.64 figure was accurate but argued that it was unfair to disqualify the appellant by just being .44% over the FPL. She argued that the appellant has no means to make money because of his disability and has considerably less taxable income than MassHealth is considering. She testified the appellant has not yet submitted a supplemental disability form to confirm his disability but will do so after the hearing. She further criticized inconsistent letters and information from MassHealth the appellant has received about his current FPL percentage.

Findings of Fact

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

1. The appellant is a household of one and formerly eligible for Partial Health Safety Net.
2. On September 19, 2023, the appellant updated his gross income to \$3,743.64 a month. This places him at 300.44% the FPL.
3. The appellant has not submitted a supplemental disability form
4. On September 19, 2023, MassHealth notified the appellant that he is not eligible for MassHealth benefits due to him being over income.
5. On September 29, 2023, the appellant filed an appeal with the Board of Hearings.

Analysis and Conclusions of Law

130 CMR 613.04(6)(b)(3)(D) sets forth all of the eligibility requirements for Partial Health Safety Net.

3. Health Safety Net - Partial. A Low Income Patient eligible for either Health Safety Net - Primary or Health Safety Net - Secondary who documents MassHealth MAGI Household income or Medical Hardship Family Countable Income, as described in 101 CMR 613.04(2), greater

than 150% and less than or equal to 300% of the FPL is considered Health Safety Net - Partial and must meet the Health Safety Net - Partial deductible described in 101 CMR 613.04(8)(c).

The appellant has not demonstrated that his modified adjusted gross income is less than or equal to 300% of the federal poverty level. The appellant representative did not dispute MassHealth's determination of his monthly household gross income of \$3,743.64. MassHealth found this income to be 300.44% of the FPL which the appellant representative disputes as he received multiple letters from MassHealth with differing FPL percentages. During the hearing the MassHealth worker gave 300.44% as the definitive percentage and the appellant representative gave no alternative calculation. Therefore, it is found that MassHealth's calculation of the FPL is accurate. The appellant representative then argued MassHealth's determination is unfair as the appellant is unable to earn an income due to his disability and is just barely over the MassHealth requirement. Finally, she argued that he has very little taxable income, which should be considered. Despite the representative's arguments, there are no exceptions for fairness or alternative calculation criteria for the income requirements of 130 CMR 613.04(6)(b)(3)(D) and the representative cited no legal basis for her arguments. Furthermore, the representative conceded that the appellant has not yet filled out a disability supplement form as required by 130 CMR 505.002(E)(2) for his disability to be considered.

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.

David Jacobs
Hearing Officer
Board of Hearings

cc: Tewksbury MassHealth Enrollment Center