

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied; Remanded	<b>Appeal Number:</b>	2309309
<b>Decision Date:</b>	12/21/2023	<b>Hearing Date:</b>	10/31/2023
<b>Hearing Officer:</b>	Emily T. Sabo		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Damion English, Quincy MEC



*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; Remanded	<b>Issue:</b>	Eligibility; Income; Under 65; CarePlus; Cost of Living Adjustment
<b>Decision Date:</b>	12/21/2023	<b>Hearing Date:</b>	10/31/2023
<b>MassHealth's Rep.:</b>	Damion English	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South (Virtual)	<b>Aid Pending:</b>	Yes

### 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 23, 2023, MassHealth terminated the Appellant's MassHealth CarePlus benefits because MassHealth determined that her income is too high to qualify (see 130 CMR 505.008(A) and Exhibit 1). The Appellant filed this appeal in a timely manner on October 5, 2023, and received aid pending appeal (see 130 CMR 610.015(B) and Exhibit 2). Denial or reduction of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the Appellant that her coverage for MassHealth CarePlus would end because her household income exceeded eligibility limits.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.007(B) and 130 CMR 505.008(A), in terminating the Appellant's MassHealth CarePlus benefit because it

determined her household income exceeded program limits.

## **Summary of Evidence**

MassHealth was represented virtually by a representative from the Quincy MassHealth Enrollment Center. The MassHealth representative testified that the Appellant is between the ages of 21 and 64 years old, and that she has a household size of one. The MassHealth representative testified that the Appellant's income as of July 17, 2022, is \$28,728 annually, which is 192% of the Federal Poverty Level, and she is no longer eligible for CarePlus. The MassHealth representative testified that the Appellant's income would have to be less than or equal to 133% of the Federal Poverty Level, to be eligible for CarePlus. The MassHealth representative explained that the Appellant's CarePlus benefit had continued until 2023 due to the declared public health emergency, but that that has ended. The MassHealth representative testified that the Appellant may be eligible for health insurance through the Health Connector.

The Appellant appeared at the hearing virtually and verified her identity. The Appellant agreed that MassHealth's testimony regarding her income was correct, and that it is \$2,394/monthly. The Appellant testified that the source of her income is social security and that she received a cost-of-living adjustment, and she reported that increase to MassHealth. The Appellant testified that she moved to a housing situation with lower rent to reduce her living expenses. The Appellant also testified that after her living expenses, she only has \$30 monthly, and that she does not know how she will be able to pay for medical insurance. The Appellant testified that she has called the Health Connector but has been confused and did not get a clear answer as to what her coverage might be.

## **Findings of Fact**

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

1. The Appellant is an individual between the ages of 21 and 64 years old. (Testimony).
2. The Appellant has an annual gross income of \$28,728, a monthly income of \$2,394, and a household size of one. (Testimony).
3. To be eligible for MassHealth CarePlus, an individual's modified adjusted gross income must be less than or equal to 133% of the Federal Poverty Level. In 2023, 133% of the Federal Poverty Level for a household of one is \$1,616.00 a month. (Testimony and 130 CMR 505.008(A)).

## Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly determined that the Appellant's gross household income exceeded program limits to qualify for MassHealth CarePlus. As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant with the most comprehensive benefit for which they are eligible. 130 CMR 501.003(A). The MassHealth coverage types are listed as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,<sup>1</sup> 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 ....
- (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, applicants must meet both the categorical and financial requirements. To calculate financial eligibility, MassHealth regulations at 130 CMR 506.007 provide that:

- (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

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<sup>1</sup> "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type.

(1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) 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(M).

(b) 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(D).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) 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) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.

(2) Round these annual figures up to the nearest hundredth.

(3) Divide by 12 to arrive at the monthly income standards.

130 CMR 506.007.

Here, to be eligible for MassHealth CarePlus, an individual's modified adjusted gross income must be less than or equal to 133% of the federal poverty level. 130 CMR 505.008(A)(2)(c). The Appellant agreed that her income is \$28,728 annually and \$2,394 monthly. MassHealth deducts 5 percentage points of the Federal Poverty Level in determining countable income, and thus the

appellant's countable income is \$2,333.25 (\$2,394 - \$60.75). In 2023, 133% of the Federal Poverty Level equals \$1,616 monthly for a household of one. 2023 MassHealth Income Standards & Federal Poverty Guidelines.<sup>2</sup>

There is no dispute that the Appellant's income currently exceeds 133% of the Federal Poverty Level. As such, unfortunately, the Appellant does not meet the financial requirements to qualify for MassHealth CarePlus. Therefore, MassHealth did not err in issuing the September 23, 2023, notice.

The Appellant's arguments regarding her expenses are noted. However, to the extent that these arguments pertain to the legality of the applicable regulations, it is beyond the scope of the hearing officer's decision-making authority. MassHealth Fair Hearing regulations state, in pertinent part:

***the hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency.*** Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

130 CMR 610.082(C)(2) (emphasis added).

However, the MassHealth regulations at 130 CMR 506.008 specifically provide for cost-of-living adjustment protections:

Applicants and members whose income increases each January as the result of a cost-of-living adjustment (COLA) will have their eligibility determined using their social security income just before the COLA, if such income can be verified, until the subsequent federal poverty level adjustment.

130 CMR 506.008.

Accordingly, while the appeal is denied, I am remanding the matter to MassHealth to determine whether its calculation of the Appellant's countable income was in accordance with 130 CMR 506.008.

The Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL

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<sup>2</sup> This source is publicly available at: <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

(1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.

## **Order for MassHealth**

Determine whether the calculation of the Appellant's countable income was in accordance with 130 CMR 506.008, as the Appellant testified her increased income was due to a cost-of-living adjustment. If so, rescind aid pending and proceed with the action set forth in the notice dated September 23, 2023.

## **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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Emily T. Sabo  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171