

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2309672
Decision Date:	12/19/2023	Hearing Date:	11/14/2023
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Marcus Levine, Charlestown



*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, under 65, income and household size
Decision Date:	12/19/2023	Hearing Date:	11/14/2023
MassHealth's Rep.:	Marcus Levine	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown (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

By notice dated August 30, 2023, MassHealth downgraded Appellant's eligibility from MassHealth Standard to Health Safety Net effective August 20, 2023. Exhibit 4. On September 28, 2023, MassHealth notified Appellant that she is eligible for Health Safety Net. Exhibit 1. Appellant filed this appeal in a timely manner on October 11, 2023. Exhibit 2. 130 CMR 610.015(B). Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded Appellant's eligibility from MassHealth Standard to Health Safety Net effective August 20, 2023.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant was not eligible for MassHealth Standard.

Summary of Evidence

The MassHealth representative appeared by phone and submitted documents, Exhibits 4 and 5. A summary follows. On August 30, 2023, MassHealth notified Appellant that her coverage would downgrade from MassHealth Standard to Health Safety Net effective August 20, 2023. Exhibit 4. This notice states that Appellant will not get MassHealth Standard after September 30, 2023 because Appellant no longer meets the income level for this benefit. The notice lists Appellant's household size as three and her income at 151.90% of the federal poverty level (FPL). *Id.* On September 15, 2023, MassHealth received a call to remove Appellant's ex-partner from her household. This prompted MassHealth to issue a request for information for updated income and other documents. Exhibit 5. Appellant submitted income verification.

On September 28, 2023, MassHealth determined that Appellant was not eligible for a MassHealth coverage type but was approved for Health Safety Net. Exhibit 1. Based on the updated income submitted, MassHealth determined that Appellant's household income for a household of 3 was 191.36% of the FPL. The MassHealth representative testified that the paystubs submitted showed that Appellant's biweekly income averaged \$1,877. Appellant is eligible for a Health Connector plan type 2B. Appellant's two minor children have remained eligible for Family Assistance.

Appellant appeared by phone and submitted a letter in support, Exhibit 2. A summary follows. Appellant has had MassHealth for over 12 years. Appellant seeks to have her coverage protected until she is able to enroll in a Health Connector plan. Appellant left her ex-partner over a year prior after experiencing domestic violence. Appellant requires continuity of care because she is experiencing ongoing medical issues. Appellant has had to visit emergency services to address a skin infection. Appellant set up appointments while she had coverage and was blindsided when she learned that her coverage terminated at her dermatology appointment. Appellant requires insurance for her antibiotics and to get results of a biopsy. Appellant also requires seeing a therapist for her mental health, and has not been able to make an appointment since being removed from MassHealth. It is crucial that Appellant be able to see her providers.

Appellant confirmed that MassHealth's calculation of her income was correct and was never told that she only remained eligible for MassHealth Standard because of the Covid public health emergency protection. Appellant argued that her Health Safety Net does not cover the care she needs. Appellant was told that the appeal could reinstate her coverage. Appellant did not enroll in a Connector plan because she was going through the appeal process. Appellant argued that she submitted her appeal on October 9, 2023.

Findings of Fact

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

1. Appellant is in a household of three and under the age of 64.

2. Appellant's biweekly income averaged \$1,877.
3. In 2023, the FPL for a household of three was \$2,072 monthly and \$24,864 yearly; 133% of the FPL was \$2,756 monthly and \$33,072 yearly.
4. On August 30, 2023, MassHealth notified Appellant that her coverage would downgrade to Health Safety Net effective August 20, 2023 and she would not receive MassHealth Standard after September 30, 2023. Exhibit 4.
5. On September 28, 2023, MassHealth notified Appellant that she is eligible for Health Safety Net. Exhibit 1.
6. Appellant filed this timely appeal on October 11, 2023. Exhibit 2.

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 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) MassHealth Standard – for people who are pregnant, 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 (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (6) MassHealth Medicare Savings Programs – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes 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) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(A) Earned Income.

- (1) Earned income is 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.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.
- (4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

- (1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S. Individual Tax Return.
- (2) 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 tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when

calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses, for the amount and populations allowed under federal law;
- (5) one-half self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);
- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and
- (12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law.

An adult under the age of 64 is eligible for MassHealth's CarePlus benefit if their income at or below 133% of the FPL. 130 CMR 505.008(A)(2)(c). An adult caretaker of a child under the age of 19 years old may be eligible for MassHealth Standard if their income is below 133% of the FPL. 130 CMR 505.002(C)(1)(a). MassHealth determines monthly income by multiplying weekly income by 4.333. 130 CMR 506.007(A)(2)(c).

Here, Appellant's income is higher than 133% of the FPL and therefore does not qualify for a MassHealth benefit.

Aid pending

MassHealth members have a right to request a fair hearing on "any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance." 130 CMR 610.032(A)(3). In order to qualify for benefits to continue during the pendency of the appeal, the Board of Hearings must receive the request for fair hearing before the implementation date or within ten days of the mailing of the notice of appealable action. 130 CMR 610.036(A).

Here, for the aid pending protection, Appellant would have had to appeal MassHealth's decision to end her Standard benefit before September 30, 2023 or within ten days of the August 30, 2023 notice. The Board of Hearings received Appellant's request for hearing on October 11, 2023. Appellant's appeal was not timely for aid pending.

Accordingly, 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

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