

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2310067
Decision Date:	1/16/2024	Hearing Date:	11/20/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone
Pro se

Appearance for MassHealth:
Via telephone
Connie Dorvil



*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; Over income
Decision Date:	1/16/2024	Hearing Date:	11/20/2023
MassHealth's Rep.:	Connie Dorvil	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Tewksbury MassHealth Enrollment Center Room 3 (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 notices dated September 12, 2023, MassHealth informed the appellant that her children no longer qualify for MassHealth benefits because of access to other health insurance. (130 CMR 505.002 (M)(N); 505.005 (D); 522.004 (C); Exhibit 1). The appellant was further informed on September 12, 2023 that she no longer qualifies for MassHealth benefits because her income is over the allowable limit. (130 CMR 506.007 (B); 130 CMR 502.003; Exhibit 7). The appellant filed this appeal in a timely manner on October 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 she is over the allowable income limits to receive MassHealth benefits. MassHealth also notified the appellant that her children no longer qualify for MassHealth benefits because of access to other health insurance.

Issue

The appeal issues are whether MassHealth was correct in determining that the appellant no longer qualifies for MassHealth benefits because she is over the allowable income limit and whether MassHealth was correct in determining that the appellant's children no longer qualify for MassHealth benefits due to access to other health insurance.

Summary of Evidence

The MassHealth representative appeared *via* telephone and testified as follows: the appellant's MassHealth benefits were terminated because the household income was over the allowable income limits. The appellant qualifies for benefits through the MassHealth Connector. As to the appellant's household income, the MassHealth representative confirmed that the appellant reported that she grosses \$2,000.00 every two (2) weeks from employment. The appellant's spouse grosses \$4,892.00 every two (2) weeks from employment, which places the appellant at 436.69% of the Federal Poverty Level (hereinafter "FPL"). The MassHealth representative clarified that the appellant's benefits were terminating on September 26, 2023 because she is over the allowable income limit, not because of other health insurance.

The appellant appeared at the hearing telephonically and testified that she believed the reason for denial was because of access to other health insurance. (See, Exhibit 1). The MassHealth representative testified that she is aware that the appellant received the September 12, 2023 notices discussing access to other health insurance. The MassHealth representative testified that she conducted further research and confirmed that the appellant received another notice dated September 12, 2023. (See, Exhibit 7). In that notice, MassHealth informed the appellant that she no longer qualifies for MassHealth benefits because she is over the allowable income limits. *Id.* The appellant stated that she believed the September 12, 2023 over-income notice pertained to her and her spouse. She explained that she and her spouse are not seeking MassHealth benefits. Rather, she is seeking MassHealth benefits for her children as secondary insurance. The appellant explained that her family has active coverage through a Health Connector plan. The reason that she sought MassHealth as a secondary insurance for her children is primarily because one of her children needs braces. MassHealth has been covering her child's orthodontic treatment plan. If benefits are terminated though, the braces will need to be removed because the appellant's primary health insurance plan does not cover orthodontic treatment.

The MassHealth representative testified that the appellant's children previously received Family Assistance benefits as of February of 2022, during the COVID emergency. At that time, all members' benefits were protected. The COVID protections ended in April of 2023 and all MassHealth members were subsequently redetermined for eligibility purposes. MassHealth has determined that the appellant is over the allowable income limits. The appellant made inquiry as to whether there was an alternative method for her children to qualify for MassHealth benefits as secondary insurance.

The MassHealth representative explained that MassHealth benefits are based upon income. Based on the appellant's reported income, unfortunately her children do not qualify for MassHealth benefits. The appellant next inquired about her reported bi-weekly income of \$2,000.00. She explained that from that amount, she has funds deducted to be deposited into her Investment Retirement Account (hereinafter "IRA"). The appellant inquired whether MassHealth will disregard this amount when determining eligibility. The MassHealth representative explained that MassHealth disregards such and inquired about the amount that the appellant has deducted from her bi-weekly gross earnings. The appellant testified that she has \$15,800.00 per year set aside. She explained that while she grosses approximately \$52,000.00 per year, her income really amounts to approximately \$38,000.00 per year. The appellant stated that she did not realize MassHealth deducts her 401K contributions when determining income. The appellant stated that she has \$636.36 subtracted from each paycheck. Her bi-weekly income amounts to \$1,363.64 before taxes. The appellant's spouse has \$15,800.00 deducted from his income per year, or \$607.00 deducted from his bi-weekly income. The appellant's spouse gross is \$4,285.00 bi-weekly.

The MassHealth representative updated the income figures as testified to by the appellant. She explained that she was unable to run the appellant's case again to see if she qualifies for MassHealth benefits due to computer-related issues. She explained that the appellant can contact MassHealth on a later date at 1-800-841-2900. The MassHealth representative explained that if the appellant's updated income deems her eligible to receive MassHealth benefits, an approval notice will be generated, and will be mailed to the appellant. Upon inquiry, the MassHealth representative testified that for the appellant's household of 5, their monthly income could not exceed \$3,895.00 per month, or \$46,740.00 per year. The appellant testified that two of her children have mental disabilities. The appellant was encouraged to research the option of a disability determination for the children; the MassHealth representative stated that she would mail the appellant disability supplements (applications) to the appellant.

Findings of Fact

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

1. The appellant's children previously received MassHealth Family Assistance benefits; these benefits were protected during the COVID public health emergency.
2. On September 12, 2023, MassHealth notified the appellant that was no longer eligible to receive MassHealth benefits because she was over the allowable income limit.
3. On September 12, 2023, MassHealth notified the appellant that her children were no longer eligible to receive MassHealth benefits beginning on September 26, 2023 because of access to other health insurance.

4. The appellant is under the age of 65 and resides in a household with her spouse and 3 children, all under the age of 19.
5. The appellant verified her gross bi-weekly income amounts to \$1,363.64.
6. The appellant verified that her spouse's bi-weekly income amounts to \$4,285.00.
7. The appellant has active health coverage through a Health Connector plan.
8. The appellant sought MassHealth benefits as secondary insurance for her children.

Analysis and Conclusions of Law

The MassHealth regulations found 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)).

MassHealth Family Assistance requirements are further explained as follows:

- (A) Overview. 130 CMR 505.005 contains the categorical requirements and financial standards for MassHealth Family Assistance.
- (1) Children who are citizens, as defined in 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrants, as defined in 130 CMR 504.003(A): *Lawfully Present Immigrants*, or nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL) are eligible for MassHealth Family Assistance.

....

(130 CMR 505.005(A)(1)).

- B) Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 150% and Less than or Equal to 300% of the Federal Poverty Level. Children younger than 19 years old are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(B) if they meet the following criteria.
- (1) Eligibility Requirements. A child is eligible if
- (a) the child is younger than 19 years old;
 - (b) the child's modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL);
 - (c) the child is ineligible for MassHealth Standard or CommonHealth;
 - (d) the child is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*;
 - (e) the child complies with 130 CMR 505.005(B)(2) and meets one of the following criteria:
 - 1. the child is uninsured; or
 - 2. the child has health insurance that meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*.

(130 CMR 505.005(B)(1)).

To determine whether the appellant's modified adjusted gross income ("MAGI") is less than or

equal to 133 percent of the federal poverty level, we must review the rules governing calculation of financial eligibility which can be found at 130 CMR 506.000. This regulation explains that financial eligibility is determined by household composition, countable income, and allowable deductions.

In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. Once this number is determined, the regulation requires that 5 percentage points of the current federal poverty level (FPL) be subtracted from the applicable household total countable income. Once that calculation is made, MassHealth will determine whether the applicant's countable income makes them eligible for coverage.

(130 CMR 506.007(A)).

Here, when the September 12 notices issued, the appellant's family's verified MAGI, at 436.69%, exceeded the MassHealth Family Assistance program limited as outlined above. Thus, MassHealth's determination that the children no longer qualify for benefits was accurate.¹

The appeal is denied.²

Order for MassHealth

None, other than to run the appellant's case and send an updated eligibility notice.

¹ The basis for the notice that references access to other health insurance is unclear. When considered along with the companion notice that references income, however, MassHealth's overall determination is accurate.

² At hearing, the appellant identified retirement contributions that affect the family's MAGI. MassHealth was unable to redetermine eligibility at hearing due to computer issues.

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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290