

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2310152

**Decision Date:** 11/27/2023

**Hearing Date:** 11/24/2023

**Hearing Officer:** Alexis Demirjian

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
John Prout



*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;
<b>Decision Date:</b>	11/27/2023	<b>Hearing Date:</b>	11/24/2023
<b>MassHealth's Rep.:</b>	Prout	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Telephonic	<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 October 11, 2023, MassHealth notified the appellant that he did not qualify for MassHealth or Health Safety Net because based on federal and state data sources, the appellant did not financially qualify for MassHealth. (see 130 CMR 502.007 (c) and Exhibit 1). The appellant filed this appeal in a timely manner on October 20, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal before the Board of Appeal. (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth determined that the appellant did not qualify for MassHealth benefits.

## Issue

Whether MassHealth was correct in determining that the appellant did not qualify for benefits.

## Summary of Evidence

The appellant testified that he is an attorney and in the preceding years he has experienced financial hardships that rendered him eligible for MassHealth. He testified that he is currently

making income that makes him ineligible for MassHealth. The appellant repeatedly testified that he does not contest that he is ineligible for MassHealth benefits. The appellant also testified that within the past year he has taken upwards of \$80,000 out of retirement account but did not believe this should count as income for MassHealth purposes because it was not disposable income, and it went to paying expenses.

The appellant argued that under humanitarian and hardship principles the hearing officer should approve retroactive coverage from the date of termination, October 25, 2023, until December 1, 2023, which is the date when his new coverage begins through the Massachusetts Health Connector.

MassHealth testified that based on the federal and state data sources, the appellant's income did not qualify him for MassHealth coverage and that the appellant had only Partial Health Safety Net coverage, thus MassHealth could not cover the gap in coverage as the appellant was not financially entitled to receive this benefit.

The appellant expressed his dissatisfaction with MassHealth's method of mailing notices and the short notice he received regarding the termination of coverage. The appellant argued that MassHealth should send termination of benefits via certified mail. The appellant repeatedly interrupted the MassHealth representative and the hearing officer.

## **Findings of Fact**

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

1. The appellant is under 65 years of age.
2. The appellant's income renders him ineligible for MassHealth coverage.
3. Based on the appellant's representations, he did not qualify for MassHealth coverage from October 25, 2023, through December 1, 2023.

## **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).

Countable household 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).

Pursuant to 130 CMR 506.003 (A) earned income is:

- (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.

Pursuant to 130 CMR 506.003(B), unearned income is:

**(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.**

Income may be verified either through electronic data matches or paper verification. *See 130 CMR 506.005.*

(A) Electronic Data Matches.

(1) Data Matches. MassHealth electronically matches with federal and state data sources described in 130 CMR 502.004: Matching Information to verify attested income.

(2) Reasonable Compatibility. The income data received through an electronic data match is compared to the attested income amount to determine if the attested amount and the data source amount are reasonably compatible. If these amounts are reasonably compatible, the attested income is considered verified for purposes of an eligibility determination. To be considered reasonably compatible

(a) both the attested income and the income from the data sources must be above the applicable income standard for the individual; or

(b) both the attested income and the income from the data sources must be at or below the applicable income standard for the individual; or

(c) the attested income is at or below the applicable standard and the income from the data sources is above the applicable standard but their difference is 10% or less; or

(d) the attested income is above the applicable standard and the income from the data sources is at or below the applicable standard.

(3) Self-attested Income. When self-attested income is reasonably compatible with the electronic data, the income amount used to determine eligibility is the self-attested amount.

(B) Paper Verification. If the attested income and the income from the electronic data source are not reasonably compatible, or if the electronic data match is unavailable, paper verification of income is required.

(1) Paper verification of monthly earned income includes but is not limited to

- (a) recent paystubs;
- (b) a signed statement from the employer; or
- (c) the most recent U.S. Individual Tax Return.

(2) Verification of monthly unearned income is mandatory and includes, but is not limited to

- (a) a copy of a recent check or paystub showing gross income from the source;
- (b) a statement from the income source, where matching is not available; or
- (c) the most recent U.S. Individual Tax Return.

(3) Verification of gross monthly income may also include any other reliable evidence of the applicant's or member's earned or unearned income.

(4) For reasonably predictable fluctuating income, as described in 130 CMR 506.003(A)(4), verification may also include documentation of a contract for employment or clear history of predictable fluctuations in income.

total countable income to determine eligibility of the individual under the coverage type with the highest income standard.

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements.

In this matter the appellant repeatedly asserted that he was financially ineligible for MassHealth benefits, he acknowledged that his income has increased and that he accessed funds that would be considered unearned income and thus would be countable for determining MassHealth eligibility.

The appellant requests that despite his admission that he is financially ineligible for MassHealth benefits, the hearing officer and or MassHealth give him a benefit based on hardship. The appellant did not cite to a regulation which affords MassHealth or the hearing officer the authority to override MassHealth regulations and federal law which sets forth the guidelines for financial eligibility.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

Here the appellant offered no evidence or argument that MassHealth erred in its determination that he was ineligible for benefits. For those reasons, the appellant has failed to meet his burden 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.

---

Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186