

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2310241
<b>Decision Date:</b>	1/3/2024	<b>Hearing Date:</b>	11/28/2023
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**  
*Via telephone:*  
Pro se

**Appearance for MassHealth:**  
*Via telephone:*  
Sherri Paiva, Taunton 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	<b>Issue:</b>	Eligibility; Under 65; Over Income
<b>Decision Date:</b>	1/3/2024	<b>Hearing Date:</b>	11/28/2023
<b>MassHealth's Rep.:</b>	Sherri Paiva	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center Remote	<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 October 7, 2023, MassHealth notified the appellant that her child does not qualify for MassHealth benefits (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 (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth informed the appellant that her child does not qualify for MassHealth benefits and her coverage would terminate on October 21, 2023.

### Issue

The appeal issue is whether MassHealth was correct in terminating the appellant's MassHealth benefits.

## Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: the appellant, who is pregnant, has a household size of four including the appellant, her domestic partner, their child, and unborn child. The household's income is about \$10,194 gross per month, or 402.79% of the Federal Poverty Level (FPL). As a result, the adults in the household qualify for a Health Connector plan and the child, the Children's Medical Security Plan (CMSP). MassHealth issued the notice under appeal on October 7, 2023, which informed the appellant that her child does not qualify for MassHealth benefits and her coverage would terminate on October 21, 2023.

MassHealth explained that the appellant's case and household size has been changed several times since May 4, 2023, affecting the family's eligibility. As background, on January 1, 2023, a renewal was sent for the appellant to complete by February 4, 2023. On May 4, 2023, the application was updated and a notice issued informing the appellant of a downgrade in coverage from MassHealth Standard, which would terminate on June 30, 2023. From August 21, 2020 to June 30, 2023, the appellant's child was on MassHealth Standard. From June 30, 2023 through October 20, 2023, the child was not on MassHealth and only eligible for CMSP because her father's income changed the benefits for which she was eligible. On October 19, 2023, the appellant updated her household size and the appellant's father was not listed. Based on her income and a household size of three (the appellant, her child, and unborn child), the child was again eligible for MassHealth Standard, effective October 20, 2023. But on October 23, 2023, the household size and income was corrected to include her father. As a result, the child was deemed eligible for CMSP and the parents, the Health Connector. The child's MassHealth Standard benefits, which began on October 20, 2023, were protected during the appeal process through aid pending.

The appellant's mother appeared at hearing via telephone. She testified that the income and household size of four was correct. She was not living with the child's father for a few years, but now she is. Her main concern was a bill in the amount of \$385 from a visit to her child's doctor in August 2023. She did not realize her child's insurance benefits had changed and did not recall getting the May 4, 2023 notice. The MassHealth representative testified that the May 4, 2023 notice informing the appellant of the downgrade in coverage was mailed to the correct address.

## Findings of Fact

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

1. The appellant is pregnant and under the age of 65 with a household size of four (Testimony).
2. On October 7, 2023, MassHealth notified the appellant that her child does not qualify for MassHealth benefits and her coverage would end on October 21, 2023 (Testimony and Exhibit 1).

3. The household's income is about \$10,194 gross per month, or 402.79% of the Federal Poverty Level (Testimony).
4. The appellant did not dispute the income or household size, but was looking for coverage for a bill from her child's doctor for services in August 2023 (Testimony).
5. The appellant's child had MassHealth Standard from August 21, 2020 to June 30, 2023 and Children's Medical Security Plan from June 30, 2023 to October 20, 2023 (Testimony and Exhibit 4).
6. MassHealth issued a notice to the appellant's address on May 4, 2023 informing her of the downgrade in her child's benefits, effective June 30, 2023 (Testimony).
7. The appellant did not appeal the May 4, 2023 notice (Testimony).
8. On October 20, 2023, the appellant timely appealed the October 7, 2023 notice (Exhibit 2).
9. The child's MassHealth Standard benefits were reinstated on October 20, 2023 and protected during the appeal process through aid pending (Testimony).

## **Analysis and Conclusions of Law**

The MassHealth coverage types are set forth at 130 CMR 505.001(A) 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;

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

- (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.

The current appeal is filed on the October 7, 2023 notice. To address the \$385 bill from August 2023 during the gap in coverage, it is necessary to establish jurisdiction over MassHealth's May 4, 2023 notice, which was never appealed. Under 130 CMR 610.015(B)(1), the Board of Hearings must receive a request for a fair hearing within 60 days after an applicant or member receives written notice from MassHealth of the intended action. MassHealth sent the notice to the correct address on May 4, 2023 and there was no appeal request within 60 days. Furthermore, under 130 CMR 610.015(B)(2), unless waived by the Director or his or her designee, the Board of Hearings must receive a request for a fair hearing within 120 days from the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action. Thus, even if MassHealth had failed to send a written notice of the May 4, 2023 action, jurisdiction could still not be established over that notice, as the current appeal request filed on October 20, 2023 is more than 120 days from the date of the action. For these reasons, the appeal is denied as to the gap in coverage from June 30, 2023 to October 20, 2023.

As to the notice under appeal, categorically, the appellant is eligible for MassHealth Standard; however, under 130 CMR 505.002(B)(2) and (D)(1), the income limit for that coverage type is 150% of the FPL for a child aged one through eighteen and 200% of the FPL for a pregnant person. Additionally, the child is categorically eligible for MassHealth Family Assistance; however, under 130 CMR 505.005(A)(1), the income limit for that coverage is greater than 150% and less than 300% of the FPL. The appellant's most recently verified gross monthly income is \$10,194, or 402.79% of the FPL. Based on this figure, both the appellant and her child are over the income limit to qualify for MassHealth Standard and Family Assistance benefits. For these reasons, the MassHealth decision is correct and the appeal is denied.<sup>2</sup>

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<sup>2</sup> The appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or

## Order for MassHealth

None, other than to rescind aid pending.

## 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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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780