

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2310884
<b>Decision Date:</b>	12/19/2023	<b>Hearing Date:</b>	12/08/2023
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Simon Poon, Charlestown 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
<b>Decision Date:</b>	12/19/2023	<b>Hearing Date:</b>	12/08/2023
<b>MassHealth's Rep.:</b>	Simon Poon	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<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 20, 2023, MassHealth determined that Appellant is not eligible for MassHealth coverage because household income exceeds program limits (130 CMR 505.001, 506.002 and Exhibit 1). Appellant filed this appeal in a timely manner on November 2, 2023 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that Appellant is not eligible for MassHealth coverage because household income exceeds program limits.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.002 et seq. in determining that Appellant is not MassHealth eligible because household income exceeds program limits.

## Summary of Evidence

On October 20, 2023 an auto-renewal was issued by MassHealth that determined Appellant is not eligible for MassHealth coverage. Appellant is a household of one non-disabled person. Appellant is employed and enrolled in her employer's health insurance plan. Appellant's verified earned income is approximately \$28,000 annually, and equates to 187% of the federal poverty level, which exceeds 133% of the federal poverty level for a household size of one person, \$1,616 monthly and \$19,392 annually. Therefore, Appellant was determined ineligible for MassHealth coverage, but is eligible for Health Safety Net Partial.

Appellant testified that she is employed and is enrolled in her employer's health insurance which doesn't provide adequate coverage for her medications. She testified to anxiety, depression, and bipolar disorder, and stated that she would complete and return a disability supplement to MassHealth. Appellant added that her income can fluctuate between \$1,200 and \$1,400 every two weeks if she works overtime.

The hearing record remained open to allow MassHealth to update Appellant's Health Connector eligibility status (Exhibit 4).

## Findings of Fact

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

1. On October 20, 2023 an auto-renewal was issued by MassHealth that determined Appellant is not eligible for MassHealth coverage.
2. Appellant is under 65 years of age and is a household of one non-disabled person.
3. Appellant is employed and is enrolled in her employer's health insurance plan.
4. Appellant's verified earned income is approximately \$28,000 annually, equating to 187% of the federal poverty level.
5. 133% of the federal poverty level for a household size of one person is \$1,616 monthly and \$19,392 annually.

## Analysis and Conclusions of Law

Effective April 1, 2023, MassHealth no longer maintains continuous coverage related to the COVID-19 pandemic for members if they have been successfully renewed in the last 12 months.<sup>1</sup> On October 20, 2023 an auto-renewal was issued by MassHealth that determined Appellant is not eligible for MassHealth coverage. Appellant's eligibility is determined based on MassHealth coverage criteria.<sup>2</sup> Regulation 130 CMR 505.000 explains 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*.

(A) The MassHealth coverage types are the following:

- (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 (MSP, also called Senior Buy-in and Buy-in) – for certain Medicare beneficiaries.

The financial standards referred to in 130 CMR 505.000 et. seq., use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: *Household Composition* (130 CMR 505.001(B)). In Appellant's case 130 CMR 506.002(B)(1) applies, and Appellant is correctly included in the household composition.<sup>3</sup>

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<sup>1</sup> See Eligibility Operations Memo 23-11 April 2023.

<sup>2</sup> See Eligibility Operations Memo 23-18 July 2023.

<sup>3</sup> (B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists of

- (a) the taxpayer; including his or her spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;

Countable household income includes earned, unearned, and rental income,<sup>4</sup> less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable by Appellant at hearing.<sup>5</sup> Appellant is under 65 years of age, is not disabled, and is not pregnant. Appellant's annual gross earned income is approximately \$28,000 and equates to 187% of the federal poverty level.<sup>6</sup> Appellant is not financially eligible for MassHealth Standard because she has not been found disabled does not meet other categorical requirements in addition to her countable income exceeding \$1,616 monthly and \$19,392 annually.<sup>7</sup> Appellant is not eligible for CarePlus because

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- (b) the taxpayer's spouse, if living with him or her regardless of filing status;
  - (c) all persons the taxpayer expects to claim as tax dependents; and
  - (d) if any woman described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1., 2., or 3., the household consists of

1. the individual;
2. the individual's spouse, if living with him or her;
3. the taxpayer claiming the individual as a tax dependent;
4. any of the taxpayer's tax dependents; and
5. if any woman described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals

1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the taxpayer;
2. individuals younger than 19 years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;
3. individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent. For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

<sup>4</sup> See 130 CMR 506.003 (A)-(C).

<sup>5</sup> The following are allowable deductions from countable income when determining MAGI: (1) educator expenses; (2) reservist/performance artist/fee-based government official expenses; (3) health savings account; (4) moving expenses; (5) self-employment tax; (6) self-employment retirement account; (7) penalty on early withdrawal of savings; (8) alimony paid to a former spouse; (9) individual retirement account (IRA); (10) student loan interest; and (11) higher education tuition and fees.

<sup>6</sup> The MassHealth agency multiplies average weekly income by 4.333 (130 CMR 506.007 (A)(2)(c)). If Appellant's income averages \$1,300 bi-weekly as she testified, it averages \$2,816 per month.

<sup>7</sup> See 130 CMR 506.003: 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). (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

she is employed with gross household income that exceeds 133% of the federal poverty level, \$1,616 per month (130 CMR 505.008). Appellant is not categorically eligible for MassHealth Family Assistance which applies to children (130 CMR 505.005) or MassHealth Limited which for individuals between 21 and 64 years of age applies to certain non-citizens with MassHealth MAGI household income less than 133% of the FPL (130 CMR 505.006(B)(1)(a)(4)).

Because the MassHealth determination is correct, the appeal is DENIED.

Appellant can direct any questions about Health Connector plans and eligibility to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.

## **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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

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

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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.