

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2311289
<b>Decision Date:</b>	06/25/2024	<b>Hearing Date:</b>	2/9/2024
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	5/31/24

**Appearance for Appellant:**



**Appearance for MassHealth:**

Damion English, Quincy MEC

**Interpreter:**

N/A



*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, Income
<b>Decision Date:</b>	06/25/2024	<b>Hearing Date:</b>	2/9/2024
<b>MassHealth's Rep.:</b>	Damion English	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote (Tel)	<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 November 6, 2023, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that the Appellant's income was too high. (Exhibit 1). The Appellant filed this appeal in a timely manner on November 9, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the Appellant is not eligible for MassHealth because the Appellant's income is higher than MassHealth Regulations allow for MassHealth benefits.

### Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over income to qualify for MassHealth benefits.

### Summary of Evidence

This Appeal was promoted by a Notice, dated in November of 2023. (Exhibit 1) A Hearing was scheduled, in which the Appellant did not appear. A Dismissal entered (Exhibit 4). The Appellant requested the Dismissal be vacated (Exhibit 5) and the Appellant's request to vacate was allowed (Exhibit 6). A subsequent Hearing was scheduled and is subject of the instant appeal.

The Appellant had submitted updated information immediately prior to the Hearing held in February of 2024. The updated information changed the calculation for the Appellant, however the Appellant remained over income. Based upon the updated information, MassHealth testified that the Appellant is an adult under the age 65, who lives in a household of one. (Testimony) MassHealth testified that there was no disability attributed to the Appellant. (Testimony) MassHealth testified that the Appellant's updated income totaled \$1,311.93 gross biweekly. To arrive at a monthly amount, \$1,311.93 biweekly, is divided by 2, then multiplied by 4.333, and once done, equates to \$2,842.29. \$2,842.29 monthly calculates in excess of 190% of the Federal Poverty Level (FPL) exceeding the limit for MassHealth CarePlus. (Testimony)

The Appellant testified as to how her income was calculated. She testified that she was paid \$23.22/hour, and it depended upon what hours she worked. For 2023, the Appellant had submitted a pay advice statement from December of 2023, which indicated that the Appellant had received \$32,389.81 year to date for 2023 in mid-December 2023. (Testimony, Exhibit 9D,pg.7)

The Appellant stated that she was enrolled in a ConnectorCare plan. (Testimony) The Appellant stated how expensive costs were and did not understand how she was expected to survive on the amount. (Testimony) The Appellant did not understand how the expenses she must pay, which she submitted prior to the Hearing (Exhibits 9A-E) were not included in the deductions listed in the MassHealth Regulations. (Testimony). When describing her copays for medication, it was revealed that the Appellant may have a disability which might impact the calculus of her eligibility. Filing a DES Supplement was discussed, and the Appellant voiced hesitation with submitting paperwork attributing to a disability. (Testimony)

Based upon the Appellant's testimony, the Record was left open for the Appellant to review and submit a DES supplement, if she so chose. The Record was also left open for MassHealth to update calculations based upon the Appellant's February 2024 submissions, as well as for the Appellant to provide updated financial information. (Exhibit 10) The Record was left open until May 31, 2024.

On June 6, 2024, MassHealth indicated that the Appellant's income had been verified and updated. (Exhibit 11). MassHealth indicated that no DES decision was found in the system related to the Appellant. (Exhibit 11). On June 7, 2024, MassHealth indicated that nothing had changed regarding her ineligibility for MassHealth due to her updated and verified income, and the Appellant remained enrolled in a ConnectorCare plan. (Exhibit 11)

On June 10, 2024, MassHealth provided the updated calculations of the Appellant's income based upon the submissions from the Appellant. (Exhibits 11, 12) MassHealth averaged 6 proffered paystubs to arrive at a weekly average income of \$1,187.51 biweekly, with a projected yearly income of \$26,000.00 (Exhibit 11) This prompted a new Notice, dated June 10, 2024, which concluded that the Appellant remains over income for MassHealth benefits, and the June Notice is incorporated within this Decision as Exhibit 12. (Exhibit 12)

## Findings of Fact

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

1. Appellant is an adult, under the age of 65, has no disability attributed, and lives in a household of one. (Testimony).
2. The Appellant has a gross monthly income of \$2,842.29. \$1,311.93 biweekly, divided by 2, then multiplied by 4.333 equates to \$2,842.29.
3. In 2023, 133% of the FPL is \$1,616.00 a month for a household of one. (2023 MassHealth Income Standards and Federal Poverty Guidelines)<sup>1</sup>.
4. In 2024, 133% of the FPL is \$1,670.00 a month for a household of one. (2024 MassHealth Income Standards and Federal Poverty Guidelines)<sup>2</sup>.
5. The Appellant's gross yearly income for 2023 was in excess of \$32,389.81. (Exhibit 9D, pg.7)
6. The Appellant's gross biweekly income in February of 2024 was calculated at \$1,311.93 (Testimony, Exhibits (9A-E)
7. Based upon the updated information furnished by the Appellant, MassHealth averaged 6 proffered paystubs to arrive at an average income of \$1,187.51 biweekly for 2024. (Exhibit 11)

## Analysis and Conclusions of Law

The Appellant challenges MassHealth's determination that the Appellant's income is too

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<sup>1</sup> 133% of the FPL for a household of 1 is \$1,616/month or \$19,392/year.

<sup>2</sup> 133% of the FPL for a household of 1 is \$1,670/month or \$20,040/year.

high for MassHealth benefits. (Exhibit 1, Exhibit 2) MassHealth Regulations at 505.001 describe MassHealth coverage types:

**505.001: Introduction**

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 old who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance S 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.

MassHealth utilizes countable household income, subtracting specific enumerated deductions in calculating income attributed to an applicant as codified within 130 CMR 506.003:

**506.003: Countable Household Income**

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 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.

MassHealth's calculus for determining financial eligibility is codified within the Regulations at 130 CMR 506.007:

**506.007: Calculation of Financial Eligibility**

The rules in 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described in 130 CMR 506.002 with the applicable income standard for the specific coverage type.

(1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of

all the household members forms the basis for establishing an individual's eligibility.

(a) A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(M).

(b) Countable 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).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types.

The Appellant is an adult under the age of 65, who did not submit a disability supplement, and therefore has been deemed not to have a disability attributed for MassHealth eligibility calculations, and resides in a household of one. The applicable MassHealth benefit program for an adult, under the age of 65, who is not disabled is CarePlus. MassHealth CarePlus' requirement for eligibility is codified within the Regulations at 130 CMR 505.008:

505.008: MassHealth CarePlus

(A) Overview.

(1) 130 CMR 505.008 contains the categorical requirements and financial standards for MassHealth CarePlus. This coverage type provides coverage to adults 21 through 64 years old.

(2) Persons eligible for MassHealth CarePlus Direct Coverage are eligible for medical benefits, as described in 130 CMR 450.105(B): MassHealth CarePlus and 130 CMR 508.000: MassHealth: Managed Care Requirements and must meet the following conditions.

(a) The individual is an adult 21 through 64 years old.

(b) The individual is a citizen, as described in 130 CMR



504.002: U.S. Citizens, or a qualified noncitizen, as described in 130 CMR 504.003(A)(1): Qualified Noncitizens.

(c) The individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.

(d) The individual is ineligible for MassHealth Standard.

(e) The adult complies with 130 CMR 505.008(C).

(f) The individual is not enrolled in or eligible for Medicare Parts A or B

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

In order for the Appellant to be deemed eligible for CarePlus, the Appellant's modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 133% of the federal poverty level (FPL). The Appellant lives in a household of one. The Appellant's 2023 income was in excess of \$32,389.81. (Testimony, Exhibit 9D,pg.7) The Appellant has a gross biweekly income calculated in February of 2024 of \$1,311.93. (Testimony, Exhibit 9D-E) Based upon the updated information provided by the Appellant, MassHealth averaged 6 proffered paystubs to arrive at a weekly average income of \$1,187.51 biweekly. (Exhibit 11)

Regarding the updated information provided by the Appellant, MassHealth averaged 6 proffered paystubs to arrive at a weekly average income of \$1,187.51 biweekly, (Exhibit 11) to arrive at a monthly amount, \$1,187.51 biweekly, is divided by 2, then multiplied by 4.333, and once done, equates to \$2,572.40. \$2,572.40/monthly calculates to 199.80% of the Federal Poverty Level (FPL) exceeding the limit for MassHealth CarePlus. (Testimony)

In 2023, the income limit for MassHealth CarePlus is 133% of the federal poverty level, or \$1,616.00 a month or \$19,392 a year for a household of one. The Appellant's income for 2023 in excess of \$32,389.81 exceeds this limit. In 2024, the income limit for MassHealth CarePlus is 133% of the federal poverty level, or \$1,670.00 a month for a household of one. Every calculation based upon the submissions and verifications of the Appellant's countable income exceeds this amount for 2024 and therefore the Appellant is not financially eligible for MassHealth CarePlus. The Appellant has not met the burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid. 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.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Patrick Grogan  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171