

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2311388
<b>Decision Date:</b>	01/04/2024	<b>Hearing Date:</b>	12/11/2023
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	12/29/2023

**Appearance for Appellant:**  
Pro se (by telephone)

**Appearance for MassHealth:**  
Jacob Sommer, Charlestown MassHealth  
Enrollment Center (by telephone)



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	MAGI eligibility (under age 65)
<b>Decision Date:</b>	01/04/2024	<b>Hearing Date:</b>	12/11/2023
<b>MassHealth Rep.:</b>	Jacob Sommer	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (remote)	<b>Aid Pending:</b>	Yes

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated November 6, 2023, MassHealth notified the appellant that his MassHealth coverage would end on November 20, 2023 due to excess income (Exh. 1). The appellant filed a timely appeal of this notice with the Board of Hearings (BOH) on November 13, 2023 (130 CMR 610.015; Exh. 2). Termination of assistance is valid grounds for appeal to the BOH (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant's coverage would terminate due to excess income.

### Issue

Did MassHealth correctly determine that the appellant's MassHealth coverage should be terminated due to excess income?

### Summary of Evidence

A MassHealth representative from the Charlestown MassHealth Enrollment Center testified by

telephone that the appellant, a single individual under age 65, was previously enrolled in MassHealth CarePlus. The appellant will turn 65 in January, 2024. The MassHealth representative testified that the appellant dropped off a completed MassHealth application at a MassHealth Enrollment Center on November 6, 2023. On the application, the appellant disclosed that he earns \$892.00 weekly, or \$3,865.03 monthly (modified adjusted gross income). According to the MassHealth representative, the appellant's modified adjusted gross income (MAGI) is therefore at approximately 313% of the 2023 federal poverty level (FPL) for a household of one. This figure exceeds 133% of the FPL for a household of one, or \$1,616.00 per month, which is the upper limit for the appellant to continue to receive MassHealth CarePlus (Testimony, Exh. 1).<sup>1</sup>

The MassHealth representative added that the appellant is eligible for a health plan through the Massachusetts Health Connector. The MassHealth representative testified that since the appellant is turning age 65 soon, he should also file an application for MassHealth benefits for seniors (Testimony).

The appellant testified on his own behalf by telephone, indicating that his income as a [REDACTED] varies from week to week. He will have Medicare insurance effective January 1, 2024. He needs surgery imminently for a hernia, and he does not want to lose health coverage prior to this surgery. He does not know whether Medicare will cover the cost of his hernia surgery. Also, he testified that while he has not been deemed disabled, he is prescribed methadone, and he needs health coverage in order to cover the cost of that drug (Testimony).

At the close of the hearing, the hearing officer agreed to keep the record of this appeal open until December 26, 2023 for the appellant to submit his two most recent paystubs showing gross earnings from his employment, and until January 2, 2024 for MassHealth to review the paystubs, and to respond whether the appellant's eligibility for MassHealth has changed (Exh. 4).

On December 26, 2023, the hearing officer received from the appellant copies of three recent paystubs from his current employer, for the following time periods: (1) November 19, 2023 through November 25, 2023 (Exh. 5A); (2) November 26, 2023 through December 2, 2023 (Exh. 5B); (2) December 3, 2023 through December 9, 2023 (Exh. 5C). For the first paystub (Exh. 5A), the appellant's gross pay was \$788.57; for the second paystub (Exh. 5B), the appellant's gross pay was \$895.70; and for the third paystub (Exh. 5C), the appellant's gross pay was \$1,015.74.<sup>2</sup>

On December 29, 2023, the MassHealth representative sent the following e-mail correspondence to the hearing officer:

Upon updating [the appellant's] application with the average income from the three

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<sup>1</sup> The appellant has "aid pending" during the pendency of this appeal, pursuant to 130 CMR 610.036.

<sup>2</sup> The hearing officer forwarded these paystubs to the MassHealth representative on December 29, 2023.

paystubs he faxed to you, his projected annual income for his household size of 1 was listed as 315.96% of the MAGI MassHealth Federal Poverty Level. This income level is categorically too high for MassHealth CarePlus, his current benefit, which is currently only available to MassHealth members age 21-64 who are at or below 133% of the FPL and do not otherwise qualify for MassHealth Standard.

(Exh. 6)

### **Findings of Fact**

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

1. The appellant is under age 65, not disabled and lives in a household of one (Testimony).
2. The appellant was previously enrolled in MassHealth CarePlus (Testimony, Exh. 1).
3. In November, 2023, the appellant filed a new MassHealth application (Testimony).
4. MassHealth determined that the appellant's MAGI was \$3,865.03 monthly, or approximately 313% of the 2023 federal poverty level (FPL) for a household of one (Testimony, Exh. 1).
5. MassHealth notified the appellant that his MassHealth CarePlus coverage would terminate on November 20, 2023 due to excess income (Exh. 1).
6. The appellant filed a timely appeal of this notice with the BOH on November 13, 2023 (Exh. 2).
7. The appellant has had "aid pending" during the pendency of this appeal.
8. 133% of the FPL for a household of one in 2023 is \$1,616.00 monthly MAGI (88 *Federal Register* 3424, pp. 3424-3425 (January 19, 2023)).
9. The hearing record was left open until December 26, 2023 for the appellant to submit recent pay stubs from his employer (Exh. 4).
10. The appellant sent copies of three recent paystubs from his current employer, for the following time periods: (1) November 19, 2023 through November 25, 2023 (Exh. 5A); (2) November 26, 2023 through December 2, 2023 (Exh. 5B); (2) December 3, 2023 through December 9, 2023 (Exh. 5C).
11. For the first paystub, the appellant's gross pay was \$788.57; for the second paystub, the

appellant's gross pay was \$895.70; and for the third paystub, the appellant's gross pay was \$1,015.74 (Exhs. 5A, 5B and 5C).

### **Analysis and Conclusions of Law**

MassHealth regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type.

130 CMR 505.001(A) notes in relevant part:

(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 - 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.

Because the appellant is not considered disabled by MassHealth or the Social Security Administration, he does not qualify for MassHealth Standard or MassHealth CommonHealth.

In order to qualify for MassHealth CarePlus, regulation 130 CMR 505.008(A) notes as follows:

- (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 of age.
- (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: *Managed Care Requirements* and must meet the following conditions.
  - (a) The individual is an adult 21 through 64 years of age.

- (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 percent 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.

(Emphasis added)

Further, MassHealth regulations at 130 CMR 506.007 state as follows:

To calculate financial eligibility for an individual, 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, dependent on the family members' familial and tax relationships to each other. The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households. 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(C). Income of all the household members forms the basis for establishing an individual's eligibility. 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(K).

(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 at 130 CMR 506.002 with the applicable income standard for the specific coverage type. **In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. 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.**

(Emphasis added)

Following the hearing, the appellant submitted three recent paystubs, reflecting the following weekly earnings for three discrete time periods: \$788.57; \$895.70; and \$1,015.74. Taking the average of these figures yields an amount of \$900.00 per week. Multiplying this amount by 4.333 yields \$3,899.70 monthly MAGI. This figure is 320% of the 2023 FPL for a household of

one.<sup>3</sup> Subtracting five percentage points from this figure, as directed by 130 CMR 506.007(A), above, yields 315% of the 2023 FPL, which still exceeds all limits for MassHealth benefits.

In sum, the appellant's income is simply too high for him to qualify for MassHealth benefits at this time.

MassHealth's decision was correct.

This appeal is DENIED.

### **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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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Nga Tran, Appeals Coordinator, Charlestown MEC

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<sup>3</sup> The FPL figures for 2024 have not been released by the federal Centers for Medicare and Medicaid Services as of January 2, 2024.