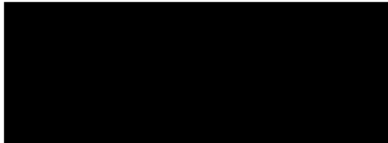


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2311476
<b>Decision Date:</b>	12/15/2023	<b>Hearing Date:</b>	12/12/2023
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Elizabeth Nickoson, Taunton MassHealth  
Enrollment Center



*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; Eligibility; Income
<b>Decision Date:</b>	12/15/2023	<b>Hearing Date:</b>	12/12/2023
<b>MassHealth's Rep.:</b>	Elizabeth Nickoson	<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 November 6, 2023, MassHealth terminated the appellant's MassHealth Care Plus benefits because the appellant no longer meets the income requirements. *See* 130 CMR 506.007 and Exhibit 1. The appellant filed this appeal in a timely manner on November 27, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. A MassHealth action to suspend, reduce, or terminate a member's benefits is valid grounds for appeal. *See* 130 CMR 610.032(3).

### Action Taken by MassHealth

MassHealth terminated the appellant's benefits.

### Issue

The appeal issue is whether MassHealth correctly calculated the appellant's income resulting in a termination of her benefits.

### Summary of Evidence

The appellant is an adult over the age of 21 and under 65 who resides in a household of one. She

was assisted at hearing by her personal representative. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and documentary evidence presented at hearing:

The MassHealth representative reported that the appellant was receiving MassHealth Care Plus benefits pursuant to protections that were put in place due to the COVID-19 pandemic. She completed her renewal application, and MassHealth verified that she earns \$4504.51 in earned monthly income, which equates to 365.74% of the federal poverty level (FPL). The MassHealth representative testified that 133% of the federal poverty level for a family of one would reflect a monthly income of \$1616.00.

The appellant and her representative testified that she earns \$1480.98 in bi-weekly income. They agreed that this equals approximately \$3209.08 in monthly income. They also reported that, due to a modification to one of the appellant's client's PCA hours, she will be receiving six less hours weekly, which she agreed means her monthly income will soon be reduced to \$2811.23. She does not currently have a diagnosis of breast or cervical cancer, is not HIV positive, and is not pregnant.

## **Findings of Fact**

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

1. The appellant is an adult under the age of 65 who resides in a household of one. Exhibit 1, Exhibit 4, Testimony.
2. The appellant receives monthly earned income in the amount of \$3209.08. Testimony
3. On November 6, 2023, MassHealth issued a notice terminating the appellant's benefits because she exceeds the income limit. Exhibit 1.
4. The appellant filed a timely appeal on November 27, 2023. Exhibit 2.
5. The appellant does not have any condition that would adjust her income requirements for MassHealth Standard, CarePlus, or Family Assistance. Testimony.
6. A monthly income at 133% of the federal poverty level equates to \$1616.00 for a household of one. Testimony, 2023 MassHealth Income Standards and Federal Poverty Level Guidelines.

## **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).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. In this case, as the appellant is over the age of 21 but under 65 but does not belong to a category to qualify for MassHealth Standard, she meets the categorical requirements for MassHealth CarePlus. The question then remains as to whether she meets the income requirements to qualify.

An individual between the ages of 21 and 64 who does not qualify for MassHealth Standard is eligible for MassHealth CarePlus if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.” 130 CMR 505.008(A)(2). To determine financial eligibility pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

(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;
- (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.

Here, the appellant does not dispute that she resides in a household of one. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level is equates to a monthly income of \$1616.00 or an annual income of \$19,342.00. *See chart at <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.*

MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking the countable income, which includes earned income as 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). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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.

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

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

In this case, MassHealth calculated the appellant's monthly income to equal \$4504.51, and at hearing, her monthly income was calculated to be \$3209.08 based on figures she provided. Her monthly income will soon decrease to \$2811.23. As those amounts each exceed 133% of the

poverty level based on 2023 standards, the appellant is not eligible for MassHealth benefits. Therefore, MassHealth did not err in issuing the November 6, 2023, notice, 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.

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Mariah Burns  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

