

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311506
Decision Date:	12/19/2023	Hearing Date:	12/13/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Harry Giang, Charlestown MEC

Interpreter:
Language Line



*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

Appeal Decision:	Denied	Issue:	Eligibility; Under 65
Decision Date:	12/19/2023	Hearing Date:	12/13/2023
MassHealth's Rep.:	Harry Giang	Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	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 September 28, 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 13, 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

The MassHealth representative testified that Appellant is a non-disabled person living in a household of 2 including herself and her [REDACTED] year-old son. Appellant was receiving MassHealth Standard coverage throughout the Public Health Emergency. On September 25, 2023, Appellant completed a renewal application and verified her earned income which totals \$2,326.32 monthly and is 136% of the federal poverty level. MassHealth testified that Appellant's income exceeds \$2,186, which is 133% of the federal poverty level for a household of 2. Because Appellant's son is [REDACTED] Appellant is no longer eligible for Standard coverage, and is otherwise ineligible for MassHealth because income exceeds MassHealth program limits. Appellant was determined eligible for a Connector Plan and Health Safety Net.

Appellant testified that she lives with her [REDACTED] year-old son in a household size of 2. Appellant added that her adult daughter also lives with her but is her own household and is not claimed as a dependent on Appellant's taxes. Appellant testified that she is employed at a beauty salon and an agency providing care for her father. She stated that she started employment in 2022, and her income fluctuates.

Findings of Fact

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

1. Appellant was receiving MassHealth Standard coverage throughout the Public Health Emergency.
2. Appellant submitted a MassHealth renewal on September 25, 2023.
3. Appellant is under 65 years of age and lives in a household size of 2 including her [REDACTED] year-old son.
4. Appellant is not disabled and did not report a pregnancy.
5. Appellant is employed with verified monthly gross income totaling \$2,326.32, which equates to 136% of the federal poverty level for a household of 2.
6. 133% of the federal poverty level for a household of 2 is \$2,186.

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.¹ A renewal application was submitted on September 25, 2023. Therefore, Appellant's application and eligibility is determined based on MassHealth coverage criteria.² 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.³

¹ See Eligibility Operations Memo 23-11 April 2023.

² See Eligibility Operations Memo 23-18 July 2023.

³ (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

Countable household income includes earned, unearned, and rental income,⁴ less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable by Appellant at hearing.⁵ Appellant is under 65 years of age, is not disabled, and is not pregnant. Appellant's verified monthly gross earned income is \$2,326.32.⁶ Appellant is not eligible for MassHealth Standard because she is not a parent of a child under 19 years of age living with her, and countable income exceeds \$2,186.⁷ Appellant is not eligible for CarePlus because she is employed with gross

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.

(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.

⁴ See 130 CMR 506.003 (A)-(C).

⁵ 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.

⁶ In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333 (130 CMR 506.007 (A)(2)(c)).

⁷ 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

household income that exceeds 133% of the federal poverty level (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 to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.

Order for MassHealth

None.

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.

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.

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