

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311722
Decision Date:	1/10/2024	Hearing Date:	12/18/2023
Hearing Officer:	Paul C. Moore	Record Closed:	12/29/2023

Appellant Representative:

Pro se (by telephone)

MassHealth Representative:

Sahen Duran, Quincy MassHealth Enrollment
Center (MEC) (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

Appeal Decision:	Denied	Issue:	MAGI eligibility, under age 65
Decision Date:	1/10/2024	Hearing Date:	12/18/2023
MassHealth Rep.:	Sahen Duran	Appellant Rep.:	Pro se
Hearing Location:	Board of Hearings (remote)		

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 17, 2023, MassHealth notified the appellant that her MassHealth CarePlus coverage would end, effective January 1, 2024, due to a change in her circumstances (Exh. 1). The appellant filed a timely appeal of this notice with the Board of Hearings (BOH) on November 17, 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 a change in her circumstances.

Issue

Did MassHealth correctly determine that the appellant's MassHealth coverage should be terminated?

Summary of Evidence

A MassHealth representative from the Quincy MassHealth Enrollment Center testified by

telephone that the appellant, a married individual under age 65 who lives in a household of two, was previously enrolled in MassHealth CarePlus. On November 17, 2023, the appellant filed a new MassHealth application. On this application, the appellant disclosed that she earns no income; her spouse earns \$1,847.00 in monthly Social Security benefits, and \$1,936.00 in gross monthly pension benefits. The MassHealth representative testified that these figures, when added, place yields \$3,783.00 monthly modified adjusted gross income.¹ This places the appellant's household at 225.20% of the 2023 federal poverty level (FPL) for a household of two. This amount exceeds the upper limit for the appellant to qualify for MassHealth CarePlus, according to the MassHealth representative (Testimony).²

The MassHealth representative added that the appellant is currently undergoing treatment for cancer, and that she qualifies for a plan with the Massachusetts Health Connector (Testimony).

The appellant testified on her own behalf by telephone that she has not worked in several years, and indicated that she recently filed a completed disability supplement with the Disability Evaluation Services (DES) unit of MassHealth. Due to her cancer diagnosis, she is prescribed a number of specialty medications, which are expensive. She did not disagree with the income figures for her spouse on file with MassHealth (Testimony).

The appellant has not yet tried to enroll in a plan with the Massachusetts Health Connector ("Connector"). If she calls to enroll with the Connector before the 23rd of the month, she can get coverage beginning January 1, 2024. At the close of the hearing, the hearing officer agreed to keep the record of this appeal open until December 29, 2023 for the appellant to report back to the hearing officer and to the MassHealth representative indicating whether she had enrolled with the Connector.

No e-mail or other correspondence was received from the appellant on or before December 29, 2023.

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 two (Testimony).
2. The appellant was previously enrolled in MassHealth CarePlus (Testimony, Exh. 1).

¹ Modified adjusted gross income (MAGI) is defined at 130 CMR 501.001 as "modified adjusted gross income as defined in section 36(B)(d)(2) of the Internal Revenue Code with the following exceptions: (1) an amount received as a lump sum only counts as income in the month received; (2) scholarships, awards, or fellowship grants used for education purposes, and not for living expenses, are excluded from income; (3) certain taxable income received by American Indians and Alaska Natives is excluded from income as described in 42 CFR § 435.603(e)."

² The appellant has "aid pending" during the pendency of this appeal, pursuant to 130 CMR 610.036.

3. In November, 2023, the appellant filed a new MassHealth application (Testimony).
4. MassHealth determined that the appellant's household MAGI consisted of her spouse's income, *to wit*, \$1,847.00 in monthly Social Security benefits, and \$1,936.00 in gross monthly pension benefits, or \$3,783.00 monthly (Testimony).
5. The appellant herself has no earned or unearned income (Testimony).
6. Via notice dated November 17, 2023, MassHealth informed the appellant that her MassHealth CarePlus coverage would terminate effective January 1, 2024 due to a change in her circumstances (Exh. 1).
7. The appellant filed a timely appeal of this notice with the BOH on November 17, 2023 (Exh. 2).
8. The appellant has had "aid pending" during the pendency of this appeal.
9. 133% of the FPL for a household of one in 2023 is \$2,186.00 monthly MAGI (88 *Federal Register* 3424, pp. 3424-3425 (January 19, 2023)).

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, she 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)

The appellant's household income consists of her spouse's income, *to wit*, \$1,847.00 in monthly Social Security benefits, and \$1,936.00 in gross monthly pension benefits, or \$3,783.00 monthly. This figure is 230% of the 2023 FPL for a household of two.³ Subtracting five percentage points from this figure, as directed by 130 CMR 506.007(A), above, yields 225% of the 2023 FPL, which still exceeds all limits for MassHealth benefits.

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

MassHealth's decision was correct.

This appeal is DENIED.

Order for MassHealth

Rescind aid pending.

Once the appellant's application submitted to the Disability Evaluation Services unit is completed, submitted, and reviewed, send the appellant a notice informing her whether is she permanently and totally disabled, with appeal rights. If the appellant is found permanently and totally disabled, review her financial eligibility for MassHealth, and send the appellant a notice of her financial eligibility, with appeal rights.

³ The FPL figures for 2024 have not been released by the federal Centers for Medicare and Medicaid Services as of January 8, 2024.

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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Tosin Adebyi, Appeals Coordinator, Quincy MEC