

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311743
Decision Date:	01/19/2024	Hearing Date:	12/18/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

Pro se

Appearance for MassHealth:

Via telephone:

Georges Jorcelin, Charlestown MEC



*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; Income; Under 65
Decision Date:	01/19/2024	Hearing Date:	12/18/2023
MassHealth's Rep.:	Georges Jorcelin	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center - 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 notices dated November 2, 2023, MassHealth approved the appellant for MassHealth Standard and approved her children for MassHealth Family Assistance (Exhibit 1). The appellant filed this appeal in a timely manner on November 17, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Determinations regarding scope or amount of assistance are valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for MassHealth Standard and her children for MassHealth Family Assistance.

Issue

The appeal issue is whether MassHealth was correct in determining the benefits levels for which she and her children qualify.

Summary of Evidence

The appellant and the MassHealth representative appeared at the hearing via telephone. The MassHealth representative testified as follows: at the time of MassHealth's determination, documentation showed that the appellant was an unmarried adult who does not file taxes. She is under the age of 65 with children under the age of 19 and zero income. The appellant and her partner live together with their two children, but they are not married. The appellant's partner claims her and their two children, who are under age 19, as tax dependents. On November 2, 2023, MassHealth approved the appellant for MassHealth Standard. That notice indicated she has a household size of three with income at 0% of the Federal Poverty Level (FPL). On November 2, 2023, MassHealth also issued notices informing the appellant of the children's approval for Family Assistance with a monthly \$40 premium. Those notices reflected a household size of four and FPL of 237.65%. The appellant appealed the November 2, 2023 approval notices.

The appellant's partner's modified adjusted gross income (MAGI) is \$6,066 gross per month. For a household of four, that is 237.65% of the FPL. To qualify for MassHealth Standard, the limit is 133% of the FPL, or \$3,325 gross per month. As the father claims the children, his income was attributable to them and the children were over the income limit for MassHealth Standard and approved for Family Assistance. The father was approved for a Connector Care plan Type 3A through the Health Connector. The MassHealth representative stated that the appellant is currently active with MassHealth Standard and her children, Family Assistance. But there was some confusion as to whether the MassHealth Standard determination for the appellant was in error. The MassHealth representative could not clarify why the partner's income was not also countable to the appellant and thought perhaps the appellant should have qualified for a Health Connector plan like her partner.

The appellant explained that she and her partner are not married but live together. She does not work and stays home with their children. She is [REDACTED] and her partner claims her on his taxes. She and the children have been on MassHealth Standard since 2019 and she did not understand why their coverage was changing. Her partner does not get any health insurance through work. She confirmed that the income MassHealth had for her partner was accurate. She was most concerned about her children being able to stay with their current pediatrician after losing their MassHealth Standard benefits, but she was accepting of Family Assistance for them.

The MassHealth representative explained that due to the Public Health Emergency, the appellant and her children remained on MassHealth Standard, despite being over the income limit. Once the Public Health Emergency ended, their information was updated and eligibility was re-evaluated, resulting in the determinations on November 2, 2023.

Findings of Fact

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

1. The appellant is an adult over the age of 21 and under the age of 65. She is not married and lives with her partner and their two young children. The appellant's partner claims the appellant and their children as tax dependents (Testimony and Exhibit 4).
2. The appellant has zero income and a household size of three which includes her children, but not her partner (Testimony and Exhibit 1).
3. The appellant's children are considered part of a household size of four, which includes both children, the appellant, and her partner (Testimony and Exhibit 1).
4. On November 2, 2023, MassHealth informed the appellant that she was approved for MassHealth Standard and her children for MassHealth Family Assistance (Testimony and Exhibit 1).
5. The appellant's partner was approved for a Connector Care plan Type 3A through the Health Connector (Testimony).
6. The appellant's partner's modified adjusted gross income is \$6,066 gross per month, which for a household of four, is 237.65% of the Federal Poverty Level (Testimony and Exhibit 1).
7. On November 17, 2023, the appellant timely appealed the November 2, 2023 approval notices (Exhibit 2).
8. The appellant did not dispute her partner's income but was concerned about her children being able to continue to see their same doctors (Testimony).

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold.

The MassHealth coverage types are set forth at 130 CMR 505.001(A) as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives,** young adults,¹ 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.
- (Emphasis added).

Additionally, 130 CMR 506.002(B) states the following regarding how MassHealth determines the MAGI household composition:

- (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 them;
 3. the taxpayer claiming the individual as a tax dependent;

¹ "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

4. any of the taxpayer's tax dependents; and
5. if any individual 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 tax payer;**
- 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.

(3) Individuals Who Do Not File a Federal Tax Return and Are Not Claimed as a Tax Dependent on a Federal Tax Return. For an individual who does not expect to file a federal tax return and who does not expect to be claimed as a tax dependent on a federal tax return or **when any of the exceptions described at 130 CMR 506.002(B)(2)(b)1., 2., or 3. apply, the household consists of**

- (a) the individual;**
- (b) the individual's spouse if living with them;
- (c) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them;**
- (d) for individuals younger than 19 years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than 19 years old if living with them; and**
- (e) if any individual described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children.

(Emphasis added).

Categorically, as a parent to two children, the appellant is eligible for MassHealth Standard. As an individual "other than the spouse or natural, adopted, or stepchild who expect[s] to be claimed as a tax dependent by the tax payer," the appellant falls into the exception outlined in 130 CMR 506.002(B)(2)(b)(1). As such, pursuant to 130 CMR 506.002(B)(3), her household consists of herself and her natural children (a household size of three). Under 130 CMR 505.002(C)(1), the income limit for MassHealth Standard is 133% of the FPL. For a household of three, that limit is \$2,756 gross monthly. With a household size of three and zero income, MassHealth correctly determined that the appellant qualifies for MassHealth Standard.

Categorically, the appellant's two children are eligible for MassHealth Standard and MassHealth Family Assistance; however, under 130 CMR 505.002(B)(2), the income limit for Standard is 150% of the FPL for a child aged one through eighteen and under 130 CMR 505.005(A)(1), the income limit for Family Assistance is greater than 150% and less than 300% of the FPL. As "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," the children also fall under the exception outlined in 130 CMR 506.002(B)(2)(b)(1). But pursuant to 130 CMR 506.002(B)(3), their household consists of the two children and both parents. As such, they have a household of four and their father's income was correctly considered. For a household of four, 150% of the FPL is \$3,750 gross monthly and 300% of the FPL is \$7,500 gross monthly. The father's monthly MAGI is \$6,066 gross monthly, or 237.65% of the FPL, which is above the limit to qualify for MassHealth Standard, but within the limit for MassHealth Family Assistance. For these reasons, MassHealth correctly determined that the appellant's children qualify for MassHealth Family Assistance.

For these reasons, the MassHealth decision was correct 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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129