

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311881
Decision Date:	1/5/2024	Hearing Date:	12/18/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jamie Zalucki, Springfield 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

Appeal Decision:	Denied	Issue:	Under 65; Eligibility; Income
Decision Date:	1/5/2024	Hearing Date:	12/18/2023
MassHealth's Rep.:	Jamie Zalucki	Appellant's Rep.:	Pro se
Hearing Location:	Video Conference	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 17, 2023, MassHealth downgraded the appellant's benefits from MassHealth Standard to the Health Safety Net because she no longer meets the income requirements. *See* 130 CMR 505.002 and Exhibit 1. The appellant filed this appeal in a timely manner on November 21, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits from MassHealth Standard to the Health Safety Net.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant does not meet the income requirements to qualify for MassHealth Standard.

Summary of Evidence

The appellant is an adult under the age of 65 who resides in a household of three with her children who are under the age of 19. MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center. All parties appeared by video conference. The following is a summary of the testimony and documentary evidence presented at hearing:

The appellant submitted a renewal application in May 2023 and reported an income which qualified her for MassHealth Standard. In September, MassHealth conducted a batch verification, in which cases are re-run to match with federal databases, and verified the appellant's total household income as being \$3293.44 per month, which is 153.99% of the federal poverty level for a household of three. The MassHealth representative testified that the appellant was not receiving pandemic protections at the time that her coverage was terminated.

The appellant reported that she is in a significant amount of debt and has been unable to pay her mortgage since June. She testified that she has been taking intermittent unpaid Family Medical Leave Act (FMLA) leave this year both to help caretake for her son, and because of her own health issues. She reported that she makes \$20 per hour and has worked 80 hours bi-weekly consistently since the fall, which math conducted at the hearing revealed equals a monthly income of \$3464.00. She asked that, if she cannot be placed on MassHealth Standard going forward, her coverage be reinstated retroactively to November to cover an emergency room visit that cost her \$700 due to the Health Safety Net deductible. She reported that she cannot afford the \$700.

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 three with her children who are under the age of 19. Exhibit 4, Testimony.
2. The appellant submitted a renewal application in May 2023, at which point she reported an income that qualified her for MassHealth Standard benefits. Testimony. MassHealth underwent a batch redetermination in September 2023, which showed that the appellant's total monthly income is \$3293.84, or 153.99% of the federal poverty level. Testimony, Exhibit 1.
3. Figures reported by the appellant equate to a monthly income of \$3464.00. Testimony.
4. On September 17, 2023, MassHealth issued a notice reporting that the appellant's MassHealth Standard benefits on October 31, 2023, because she no longer meets the income requirements. Exhibit 1.

5. The appellant filed a timely appeal on November 21, 2023. Exhibit 2.
6. The appellant was not receiving pandemic protections for her MassHealth Standard coverage when her benefits were terminated. Testimony.

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 a caretaker for her minor children, the appellant meets the categorical requirements for MassHealth Standard. The question then remains as to whether she meets the income requirements to qualify.

A parent or caretaker is financially eligible for MassHealth Standard 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 505.002(C)(1)(a). 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 three. Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level equates to a monthly income of \$2,756.00 for a household of that size. 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.

Per 130 CMR 506.003(A), countable income includes, in relevant part, “the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.”

In this case, MassHealth calculated the appellant’s monthly income to equal \$3293.84. The appellant reported that she makes \$20/hour, which equates to approximately \$3464 monthly, and that although she frequently takes intermittent FMLA leave, she has worked 80 hours bi-weekly consistently since the fall. As both amounts exceed 133% of the poverty level based on 2023 standards, MassHealth correctly determined that the appellant is not financially eligible for MassHealth Standard benefits.

The appellant has asked that her coverage be applied retroactively to cover an emergency room visit she made in November. Because her income was the same then as it is now, she would not have been financially eligible for benefits to cover that visit. The only mechanism by which she could have received coverage at that time would have been pursuant to protections put in place by MassHealth Eligibility Operations Memo (EOM) 22-10 and its progeny, which prohibited individuals from being terminated from benefits during the ongoing COVID-19 pandemic. MassHealth was required to abide by the redetermination process established by EOM 23-13 in terminating the appellant’s benefits for eligibility reasons.

EOM 23-13 requires every MassHealth member to be sent a blue envelope with a renewal application sometime between April 2023 and April 2024. Members would then have 45 days to submit that renewal, and MassHealth would undergo a complete financial evaluation to redetermine the member’s eligibility. The protections are to remain in place until that redetermination is complete, and only at that point may a member’s benefits be terminated if they are found to be no longer eligible. Here, the MassHealth representative reported that the appellant was sent a blue envelope and underwent a renewal application in May of 2023. At that time, she reported a different income, and it was not until the batch determination that was run in September that MassHealth verified the appellant’s current income. In other words, the appellant was correctly not receiving pandemic protections at the time her benefits were terminated, and there is therefore no authority for the Board of Hearings to reinstate her coverage to the time of her ER visit. See 130 CMR 610.082(C) (“[t]he [hearing officer’s] decision must be rendered in accordance with the law”).

For the foregoing reasons, I find that MassHealth acted within its discretion when it issued the September 17, 2023, notice terminating the appellant’s MassHealth Standard benefits. The appeal is denied.

The 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.

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186