

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied in part/ Dismissed in part	<b>Appeal Number:</b>	2313086
<b>Decision Date:</b>	02/20/2024	<b>Hearing Dates:</b>	01/09/2024 02/15/2024
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Cathy Tobin, Tewksbury MEC (1/9/2024)  
Jessica Ramirez ,Tewksbury MEC (2/15/2024)



*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 in part/ Dismissed in part	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	02/20/2024	<b>Hearing Date:</b>	01/09/2024 02/15/2024
<b>MassHealth's Rep.:</b>	Cathy Tobin Jessica Ramirez	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	Yes

### 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 October 5, 2023, MassHealth notified Appellant that a MassHealth review form was due by November 19, 2023 (Exhibit 1). On November 19, 2023, MassHealth notified Appellant that coverage for herself and her minor children would terminate on December 14, 2023 because a review form was not returned to MassHealth (130 CMR 502.001 et seq., and Exhibit 1). Appellant filed this appeal in a timely manner on December 12, 2023; and Appellant has been receiving continued coverage pending the outcome of the appeal (130 CMR 610.015(B), 610.036 and Exhibit 2). During the pendency of the appeal, MassHealth issued a notice on January 9, 2024 informing Appellant that she is no longer eligible for MassHealth coverage, and her two minor children are eligible for Family Assistance with a \$12 premium for each child (130 CMR 505.001 et seq., and Exhibit 5). Notice of termination of MassHealth benefits is valid grounds for appeal (130 CMR 610.032). A hearing was held on January 9, 2024. The hearing was continued on February 15, 2024.<sup>1</sup>

---

<sup>1</sup> Pursuant to 130 CMR 610.072, 610.081, the hearing was continued due to connectivity issues.

## **Action Taken by MassHealth**

Through a notice dated October 5, 2023, MassHealth notified Appellant that a MassHealth review form was due by November 19, 2023. On November 19, 2023, MassHealth notified Appellant that coverage for herself and her minor children would terminate on December 14, 2023 because a review form was not returned to MassHealth. MassHealth also issued a notice on January 9, 2024 informing Appellant that she is no longer eligible for MassHealth coverage, and that her two minor children are eligible for Family Assistance with a \$12 premium for each child.

## **Issue**

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 502.001 et seq., 505.001, 505.002, 505.005, 506.011 in terminating coverage for failure to return a review form and in notifying Appellant that she is not eligible for MassHealth benefits, and her minor children are eligible for Family Assistance with a \$12 monthly premium for each child.

## **Summary of Evidence**

An interpreter was provided by the Board of Hearings and waived by Appellant at hearing. MassHealth testified that through a notice dated October 5, 2023, MassHealth notified Appellant that a review form was due by November 19, 2023. On November 19, 2023, MassHealth notified Appellant that coverage would terminate on December 14, 2023 because the review form was not returned. Appellant returned the review form to MassHealth on December 12, 2023. MassHealth issued a notice on January 9, 2024 informing Appellant that she is no longer eligible for MassHealth coverage, and her two minor children are eligible for Family Assistance with a \$12 premium for each child. MassHealth testified that Appellant and her two minor children had been receiving MassHealth Standard coverage. Appellant and her children are U.S. citizens, and Appellant files taxes and claims both children as tax dependents (Exhibit 4). Appellant reported gross earned income totaling \$4,024.03 per month which equates to 189% of the federal poverty level for a household size of 3. Because income exceeds 133% of the federal poverty level for a household size of 3, \$2,756, Appellant is no longer eligible for Standard coverage, and her children are eligible for Family Assistance with a \$12 premium due for each child. MassHealth testified that a potential disability was indicated for Appellant's child; however, Appellant's minor child has not been determined disabled by either the Social Security Administration or Disability Evaluation Services/MassHealth. A MassHealth disability supplement was mailed to Appellant. MassHealth added that Appellant is eligible to enroll in insurance through the Health Connector.

Appellant testified that she has been employed for more than one year and noted that household income and household size are correct, but also reflect overtime that is no longer available to her. Appellant testified that she feels her minor child is disabled, and she will complete and return the

disability supplement. Appellant added that she enrolled in insurance through the Health Connector, but cannot afford premiums along with rent, and other expenses.

## **Findings of Fact**

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

1. Through a notice dated October 5, 2023, MassHealth notified Appellant that a MassHealth review form was due by November 19, 2023.
2. On November 19, 2023, MassHealth notified Appellant that coverage would terminate on December 14, 2023.
3. Appellant returned the review form to MassHealth on December 12, 2023.
4. MassHealth issued a notice on January 9, 2024 informing Appellant that she is no longer eligible for MassHealth coverage, and her two minor children are eligible for Family Assistance with a \$12 premium for each child.
5. Appellant and her two minor children, who are between one and 18 years of age, had been receiving MassHealth Standard coverage.
6. Appellant files taxes and claims both children as tax dependents.
7. Appellant and her two minor children are U.S. citizens.
8. Appellant has been employed for more than one year and reported gross earned income totaling \$4,024.03 per month which equates to 189% of the federal poverty level for a household size of 3.
9. Applicable federal poverty levels for a household of 3 are: 133%: \$2,756; 150%: \$3,108; 200%: \$4,144; 300%: \$6,215.
10. Appellant is not disabled and did not report a pregnancy.
11. Appellant's minor child has not been determined disabled by the Social Security Administration or Disability Evaluation Services/MassHealth.

## **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.<sup>2</sup> On October 5, 2023, MassHealth notified Appellant that a MassHealth review form was due by November 19, 2023. On November 19, 2023, MassHealth notified Appellant that coverage would terminate on December 14, 2023 because the review form had not been received. Appellant returned the review form to MassHealth on December 12, 2023, and MassHealth determined eligibility by notice dated January 9, 2024. Therefore, because the review form was returned to MassHealth and eligibility was determined, pursuant to 130 CMR 610.051(B) the parties have reached resolution regarding the November 19, 2023 notice appealed by Appellant, and all matters related to the October 5, 2023 and November 19, 2023 notices are DISMISSED.

MassHealth also issued a notice on January 9, 2024 informing Appellant that she is no longer eligible for MassHealth coverage, and her two minor children are eligible for Family Assistance with a \$12 premium for each child. Because the January 9, 2024 notice issued while the continued hearing was pending, and is within 60 days of the December 12, 2023 appeal request date, jurisdiction is established and the January 9, 2024 notice is addressed herein (130 CMR 610.015(B)). Appellant's household's eligibility is determined based on MassHealth coverage criteria.<sup>3</sup> 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

---

<sup>2</sup> See Eligibility Operations Memo 23-11 April 2023.

<sup>3</sup> See Eligibility Operations Memo 23-18 July 2023.

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 and other household members claimed as tax dependents are correctly included in the household composition.<sup>4</sup> Countable household income includes gross earned income less pretax deductions, unearned, and rental income,<sup>5</sup> less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable by Appellant at hearing.<sup>6</sup> Appellant's minor children are between one and 18 years of age and have

---

<sup>4</sup> (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 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.

<sup>5</sup> See 130 CMR 506.003 (A)-(C).

<sup>6</sup> 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

not been determined disabled by either the Social Security Administration or Disability Evaluation Services/MassHealth.<sup>7</sup> Appellant reported gross earned income totaling \$4,024.03 per month which equates to 189% of the federal poverty level for a household size of 3, which falls between 150% and 200% of the federal poverty level for a household of 3, \$3,108 and \$4,144 respectively. Appellant is no longer eligible for MassHealth Standard coverage because household income exceeds 133% of the federal poverty level \$2,756, she has not been determined to be disabled by Social Security or MassHealth, and did not report a pregnancy or other eligibility criteria for MassHealth Standard (130 CMR 505.002(B)-(L)). Appellant's minor children, who are between one and 18 years of age, are not eligible for MassHealth Standard because income exceeds 150% of the federal poverty level, or \$3,108 per month (130 CMR 505.002(B)(2)); and are not otherwise eligible for Standard or CommonHealth because neither has been determined permanently and totally disabled (130 CMR 505.004(G)).<sup>8</sup> Appellant and her minor children are not eligible for CarePlus which applies to adults between 21 and 64 years of age with income below 133% of the federal poverty level, \$2,756 (130 CMR 505.008). Appellant does not meet eligibility criteria for Family Assistance (130 CMR 505.005(A)).<sup>9</sup> Appellant's children are between one and 18 years 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.

<sup>7</sup> Disability is established by (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB); (b) a determination of disability by the SSA; or (c) a determination of disability by the Disability Evaluation Services (DES) (130 CMR 505.004(H)).

<sup>8</sup> See 130 CMR 501.001: Permanent and Total Disability – a disability as defined under Title XVI of the Social Security Act or under applicable state laws. (2) For Children Younger than 18 Years Old. The condition of an individual younger than 18 years old who has any medically determinable physical or mental impairment, or combination of impairments, of comparable severity to an impairment or combination of impairments that disables an adult, or are of such severity that the child is unable to engage in age-appropriate activities, as defined in Title XVI of the Social Security Act as in effect on July 1, 1996.

<sup>9</sup> See 130 CMR 505.005 (A) Overview. 130 CMR 505.005 contains the categorical requirements and financial standards for MassHealth Family Assistance.

(1) Children who are citizens, as defined in 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrants, as defined in 130 CMR 504.003(A): *Lawfully Present Immigrants*, or nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL) are eligible for MassHealth Family Assistance.

(2) Children and young adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is at or below 150% of the FPL are eligible for MassHealth Family Assistance. Children under age one who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is at or below 200% of the FPL are eligible for MassHealth Family Assistance. Young adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the FPL are eligible for MassHealth Family Assistance.

age, are U.S. citizens, and are eligible for MassHealth Family Assistance because household income is between 150% and 300% of the federal poverty level, \$3,108 and \$6,215 respectively (130 CMR 505.005(B)). The premium formula for MassHealth Family Assistance for children whose eligibility is described at 130 CMR 505.005(B), directs that a \$12 premium applies for each child (130 CMR 506.011(B)(3)).

The appeal is DENIED in that MassHealth correctly determined that Appellant is no longer eligible for MassHealth Standard coverage and is not otherwise eligible for MassHealth coverage. MassHealth also correctly determined that Appellant's minor children are no longer eligible for MassHealth Standard coverage and are eligible for Family Assistance with a \$12 monthly premium for each child. The appeal is DISMISSED in that Appellant returned the review form resolving all issues related to the October 5, 2023 and November 19, 2023 notices.

Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765).

## Order for MassHealth

None, other than rescind aid pending.

## 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

---

(3) Adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is at or below 300% of the FPL are eligible for MassHealth Family Assistance.

(4) HIV-positive individuals who are citizens as defined in 130 CMR 504.002: *U.S. Citizens* and qualified noncitizens as defined in 130 CMR 504.003(A)(1): *Qualified Noncitizens*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 133 and less than or equal to 200% of the FPL are eligible for MassHealth Family Assistance.

(5) Disabled adults who are qualified noncitizens barred, as defined in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as defined in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present*, or nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth Disabled Adult household is at or below 100% of the FPL are eligible for MassHealth Family Assistance.

(6) Certain Emergency Aid to the Elderly, Disabled and Children (EAEDC) recipients are eligible for MassHealth Family Assistance.

(7) Persons eligible for MassHealth Family Assistance must obtain and maintain all available health insurance as described in 130 CMR 503.007: *Potential Sources of Health Care*.



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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center