

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied-in-part; Dismissed-in-part	Appeal Number:	2313518
Decision Date:	3/20/2024	Hearing Date:	01/22/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Miguel Sanchez, Taunton 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-in-part; Dismissed-in-part	Issue:	Eligibility; Under 65; Income
Decision Date:	3/20/2024	Hearing Date:	01/22/2024
MassHealth's Rep.:	Miguel Sanchez	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (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 10/18/23, MassHealth informed Appellant that she did not qualify for MassHealth benefits because her income exceeded the program limit. See Exh. 1. Appellant filed this appeal in a timely manner on 12/22/23.¹ See 130 CMR 610.015(B). Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

At hearing, Appellant also alleged that she was not given advance notice that her benefit would terminate on 10/12/23 for failure to complete a renewal. If MassHealth fails to provide advance written notice of an intended appealable action, the aggrieved party has 120 days to file an appeal from the date of the action. See 130 CMR 610.015(B)(2)(c). Although Appellant's 12/22/23 fair hearing request was filed within 120 days of the 10/12/23 termination, there was insufficient evidence to show MassHealth failed to send advance written notice.² Appellant's 12/22/23 fair hearing request is outside the allowable timeframe to challenge the termination and therefore it is not substantively addressed in this Decision.

¹ Presuming Appellant received the notice on the fifth day after mailing, Appellant's fair hearing request was filed within the requisite 60-day time limit on the right to file an appeal. See 130 CMR 610.015(B)(1).

² This basis for this conclusion is further discussed herein.

Action Taken by MassHealth

MassHealth determined that Appellant was ineligible for benefits because her income exceeded the program limit.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant did not qualify for benefits due to having income that exceeded the program limit.

Summary of Evidence

A MassHealth eligibility representative testified at the hearing and provided the following background information: Appellant is between the ages of ■ and ■ and is in a household size of one (1). She was enrolled in MassHealth CarePlus on 12/31/2019. See Exh. 3. On 6/15/23, MassHealth sent a notice to Appellant's mailing address, which is the same address that appears on all notices referenced in this decision, informing her that she needed to provide MassHealth with proof of income by 9/13/23. MassHealth did not receive the requested income information by the requested deadline. Accordingly, on 9/28/23, MassHealth sent a termination notice to Appellant's mailing address, indicating that her CarePlus benefit would end on 10/12/23. On 10/12/23, Appellant's CarePlus benefit ended, and she was placed on temporary health safety net (HSN). On 10/18/23, Appellant provided MassHealth with manual verification of her income, which showed that she received a gross bi-weekly income of \$1,729, amounting to a monthly gross income of \$3,745.87. The reported income places her at 237.61% of the federal poverty level (FPL). To qualify for MassHealth benefits, non-disabled adults under the age of 65, must have income that does not exceed 133% of the FPL, which for a household size of one (1) is \$1,616 per-month. On 10/18/23, MassHealth sent a notice to Appellant's mailing address, informing her that she did not qualify for MassHealth benefits because her income exceeded program limits. See Exh. 1. On 12/22/23, Appellant timely appealed the 10/18/23 notice. See Exh. 2.

Appellant appeared at hearing and testified that she never received MassHealth's 6/15/23 request for information; nor did she receive MassHealth's 9/28/23 termination notice. Appellant confirmed that the address listed on both notices was her correct mailing address.³ Appellant testified that she did receive the 10/18/23 notice under appeal; but the last notice she received before that was in the springtime of 2023, which had informed her that her benefit had been renewed. Although she did not get the 9/28/23 termination notice, she did receive a text message from MassHealth on 10/12/23 stating her coverage was ending that day. The following day, on 10/13/23, Appellant had to go to the emergency room, and this was not covered by HSN.

³ Appellant noted that the address on the notices is not a residential address as she is currently homeless and staying with a friend.

Because of the medical costs incurred, she tried to get retroactive health coverage through her employer. She has since enrolled in her employer sponsored insurance (ESI), but she cannot afford the premium, co-payments, and other costs that she is responsible for under the plan. Appellant testified that she has been going through a health crisis since April 2023 involving back issues. As a result, she gets spine injections and sees a chiropractor routinely. She has had to reduce her treatments since losing MassHealth coverage due to cost.

Appellant confirmed that the income figures cited by MassHealth were correct; however, she still disputed MassHealth's eligibility determination due to its application of "totally unrealistic" income limits when determining eligibility. Specifically, she argued that it was unfair for the State to adopt a federal income standard as the poverty level for Massachusetts residents. Because the cost of living in Massachusetts is far higher than the national average, the State's adoption of a national standard is skewed to benefit MassHealth. Additionally, Appellant argued, it was unfair for MassHealth to determine eligibility using the individual's gross income because this amount does not represent the amount that is actually taken home. Appellant stated that because of all the other necessary living expenses she has to make, she lacks the ability to pay for health insurance – either through the Connector or through her employer. On this basis, she argued that MassHealth's eligibility determination was incorrect.

Findings of Fact

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

1. Appellant is between the ages of ■ and ■ and is in a household size of one (1).
2. On 6/15/23, MassHealth sent a notice to Appellant's mailing address, informing her that she needed to provide MassHealth with proof of income by 9/13/23.
3. On 9/28/23, MassHealth sent a termination notice to Appellant's mailing address, indicating that her CarePlus benefit would end on 10/12/23 because it did not receive proof of income.
4. On 10/12/23, Appellant received a text message from MassHealth informing her that her coverage was ending that day.
5. On 10/18/23, Appellant provided MassHealth with verification that she earns a gross bi-weekly income of \$1,729, amounting to a monthly income of \$3,745.87.
6. Appellant's income places her at 237.61% of the FPL.

7. On 10/18/23, MassHealth sent a notice to Appellant's mailing address, informing her that she did not qualify for MassHealth benefits because her income exceeded program limits.
8. Appellant received the 10/18/23 notice and timely appealed it to BOH on 12/22/23.
9. The mailing address listed on all notices referenced in this Decision is Appellant's correct mailing address.
10. Appellant incurred medical expenses after her MassHealth coverage ended.
11. Appellant subsequently enrolled in an ESI health plan, which requires her to pay a premium, co-pays, and additional out-of-pocket costs for her health care.

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly determined, pursuant to its 10/18/23 notice, that Appellant did not qualify for MassHealth benefits because her income exceeded the program limit. As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant with the most comprehensive benefit for which they are eligible. See 130 CMR 501.003(A). The MassHealth coverage types are listed as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,⁴ 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

⁴ "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

(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.

See 130 CMR 505.001(A)

To establish eligibility for MassHealth, individuals must meet both categorical and financial requirements. Here, the only coverage type that Appellant is categorically eligible for is MassHealth CarePlus.⁵ To be financially eligible for CarePlus, individuals must have a household income less than or equal to 133% of the FPL. See 130 CMR 505.002. At the time the eligibility determination was made, the income for an individual in a household size of one (1) at 133% of the FPL, was \$1,616 per-month. See 2023 MassHealth Income Standards & Federal Poverty Guidelines.⁶ This figure has subsequently been updated to \$1,670 for 2024. See 2024 MassHealth Income Standards & Federal Poverty Guidelines. It is undisputed that Appellant receives gross bi-weekly income of approximately \$1,729 every two-weeks, amounting to a monthly gross income of \$3,745.87. These figures exceed the allowable amount to qualify for CarePlus. Absent evidence showing that Appellant receives less income than the amount verified, she has not demonstrated that she is currently eligible for any of the MassHealth coverage types listed above. See 130 CMR 505.001(A). MassHealth did not err in its 10/18/23 eligibility determination.

The appeal is DENIED with respect to the 10/18/23 notice.

It is further noted that in disputing the 10/18/23 notice, Appellant took issue with MassHealth's regulatory standards and limits, including its use of gross income (as opposed to net income) to determine eligibility; as well as using a national average as the applicable poverty level, which does not reflect the uniquely high cost of living imposed on Massachusetts residents. These arguments, while duly noted, amount to challenges to the legality of applicable law and cannot be adjudicated in this hearing decision. Appellant may, however, raise such arguments on judicial review in accordance with M.G.L. c. 30A.⁷

⁵ There is no evidence to indicate that Appellant has a verified disability or other special circumstance to qualify for Standard or CommonHealth. Because Appellant is not eligible for MassHealth Standard and is between the ages of 21-65, the most comprehensive coverage type she would be *categorically* eligible for is CarePlus. Additionally, there is no evidence that Appellant would be categorically eligible for coverage types (4) through (7).

⁶ The income limits used for this decision are based on the 2023 income standards, which were in effect at the time MassHealth rendered the 10/18/23 eligibility determination. This source is publicly available at: <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

⁷ MassHealth Fair Hearing Rules at 130 CMR 610.082(C)(2) state that:

The hearing officer must not render a decision regarding the legality of federal or state law

Lastly, Appellant's fair hearing request was not filed within the allowable time limit to contest MassHealth's termination of coverage on 10/12/23. MassHealth fair hearing rules require that an applicant or member file an appeal with BOH within *60 days* of receiving the written notice of an appealable action. See 130 CMR 610.015(B)(1). The time limit is extended to *120 days* from the date of an appealable action when MassHealth fails to send written notice of the action." See 130 CMR 610.015(B)(2)(c). While Appellant's 12/22/23 fair hearing request was filed within "120 days" of an appealable action (i.e., her 10/12/23 coverage end-date), there is insufficient evidence to indicate that MassHealth failed to send Appellant written advance notice of the termination. At hearing, Appellant alleged that the last notice she received from MassHealth, prior to the 10/18/23 notice under appeal, was in the spring of 2023. Appellant's testimony, while credible, was outweighed by the existence of a 9/28/23 termination notice, which was reviewed by the MassHealth representative at hearing. MassHealth testified that the letter was addressed to Appellant at the same mailing address that appeared on all other notices discussed herein, and which Appellant confirmed, at hearing, was her correct mailing address. Based on the evidence, Appellant does not have a right to appeal the 10/12/23 termination under the extended 120 timeframe under 130 CMR 610.015(B)(2)(c). Appellant's 12/22/23 fair hearing request was filed outside the traditional 60-day window to contest the 9/28/23 notice. The appeal is therefore DISMISSED with respect to the 10/12/23 termination in accordance with 130 CMR 610.035.⁸

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

including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency. Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

⁸ Fair Hearing Rules at 130 CMR 610.035(A) state that "BOH will dismiss a request for hearing when (1) the request is not received within the time frame specified in 130 CMR 610.015."

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780