

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2313538
Decision Date:	03/14/2024	Hearing Date:	01/18/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Scarlis Javier via telephone



*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/Income
Decision Date:	03/14/2024	Hearing Date:	01/18/2024
MassHealth's Rep.:	Scarlis Javier	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Tewksbury MassHealth Enrollment Center	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 December 13, 2023 , MassHealth informed the appellant that she did not qualify for MassHealth benefits based on the most recent information the appellant submitted, but was eligible for the Health Connector. (See 130 CMR 502.001 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on December 22, 2023. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined the appellant was not eligible for MassHealth benefits but was eligible for the Health Connector

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant was not eligible for MassHealth.

Summary of Evidence

According to the MassHealth Medicaid Management Information System (MMIS), the appellant is an individual between the ages of 21 and 64. (Testimony; Ex. 3). The appellant has been active with MassHealth Standard with no gap in coverage since March 28, 2016. (Ex. 3; Testimony). Initially, the appellant received MassHealth Standard because she was receiving cash assistance through the Department of Transitional Assistance (DTA). (Testimony). MMIS shows this as Category 02. (Ex. 3). The appellant's MassHealth Standard under Category 02 ended on October 24, 2018 but the appellant remained on MassHealth Standard with a Category 06 starting October 25, 2018. (Ex. 3; Testimony). The appellant was not required to complete a renewal or provide any verifications for five years after this. (Testimony).

On September 20, 2023, MassHealth sent the appellant a notice asking her to complete a new application. (Testimony). On November 2, 2023 the appellant completed the application, which was entered into MassHealth's computer systems. (Testimony). According to the information the appellant submitted, she has a household size of one. (Testimony). The appellant lives with her adult son who she does not claim as a tax dependent. (Testimony). The appellant is a U.S. citizen. (Testimony; Ex. 3). The appellant does not have a verified disability. (Testimony; Ex. 3). The appellant receives gross earned income of \$1,030 per week. (Testimony). MassHealth determined that the appellant's monthly income averaged \$4,399.16. (Testimony). Based on this, MassHealth determined the appellant's income placed her at 357.07% of the Federal Poverty Level (FPL). (Testimony). In order to be eligible for MassHealth Standard, an individual must have categorical eligibility as the parent of a child under 19 or as a disabled person. Further, the individual's income cannot exceed 133% of the FPL, which was \$1,616 per month for a household of one. (Testimony). The appellant's income exceeds 133% of the FPL for a family of one. (Testimony; Ex. 1; Ex. 3).

According to the reported income, the appellant does qualify for a Type 3C Plan with an Advanced Premium Tax Credit (APTC) through the Health Connector. (Testimony). The MassHealth representative advised the appellant to contact the Connector to pick a plan before January 23, 2024 so that the plan could start February 1, 2024. That way the appellant would not have any gap in coverage.

The appellant confirmed that her gross pay was \$1,030 per week but she only brought home \$835.52. (Testimony; Ex. 4¹). The appellant stated that she is living with her adult son who was recently released from jail. (Testimony). The appellant's son [REDACTED] (Testimony). Therefore, the appellant was the only person in her home with income, and she only brought home \$835.52 per week. (Testimony). The appellant also pays \$1,400 per month in rent, which did not include utilities. (Testimony). The appellant stated she did

¹ Exhibit 4 is a written statement and packet of documents the appellant submitted to the Board of Hearings prior to the hearing. The documents were a notice of rent change, electric bill, gas bill, cellular bill, and student loan bill).

not qualify for Food Stamps, though she was waiting to hear back from the Department of Transitional Assistance regarding an appeal. (Testimony). The appellant was paying a lawyer [REDACTED] per month to defend her son until his case was over, which could take up to a year. (Testimony). The appellant did not have a car and had to pay for public transportation. (Testimony). Since October, the appellant has been paying \$63.83 per month toward a student loan, which is entirely being paid toward the interest. (Testimony; Ex. 4, p. 11). The appellant stated that the cost of living was no joke and she wanted MassHealth to take these expenses into account. (Testimony; Ex. 4).

The MassHealth representative responded by stating that she was very sympathetic to what the appellant was saying, but MassHealth could not deduct any of the expenses the appellant listed from her income. (Testimony). The income deductions included things like student loan interest, IRA, and alimony payments to a former spouse. (Testimony). The appellant stated that she had spoken to the Connector about signing up for a plan, and the cost would be \$219 per month, which was too high. (Testimony).

Findings of Fact

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

1. The appellant is an individual between the ages of 21 and 64. (Testimony; Ex. 3).
2. The appellant had MassHealth Standard with no gap in coverage since March 28, 2016. (Testimony; Ex. 3).
3. On September 20, 2023, MassHealth sent the appellant a notice asking her to complete a new application. (Testimony).
4. On November 2, 2023 the appellant completed the application, which was entered into the MassHealth computer systems. (Testimony).
5. The appellant has a household size of one. (Testimony).
6. The appellant lives with her adult son who she does not claim as a tax dependent. (Testimony).
7. The appellant is a U.S. citizen. (Testimony; Ex. 3).
8. The appellant does not have a verified disability. (Testimony; Ex. 3).
9. The appellant's receives gross earned income of \$1,030 per week from her employer. (Testimony).
10. MassHealth determined that the appellant's monthly income averaged \$4,399.16.

(Testimony).

11. Based on this, MassHealth determined the appellant's income placed her at 357.07% of the Federal Poverty Level (FPL). (Testimony).
12. The appellant has been paying \$63.83 per month toward a student loan, which is entirely being paid toward the interest.

Analysis and Conclusions of Law

In order to determine the household composition for non-disabled households, MassHealth uses the Modified Adjusted Gross Income (MAGI) rules. (130 CMR 506.002(A)(1)). 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 the taxpayer, including their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together; the taxpayer's spouse, if living with them regardless of filing status; all persons the taxpayer expects to claim as tax dependents; and if any individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children. (130 CMR 506.002(B)(1)). The appellant is the sole member of the household for the purposes of determining her household composition. Although her son resides with her, she does not claim him as a tax dependent, so he is not counted as part of her household.

Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI, forming the basis for establishing the individual's eligibility. (130 CMR 506.007(A)(2)). 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. (130 CMR 506.007(A)(2)(a)). Countable income includes earned income² and unearned income³ less deductions (including student loan interest)⁴. (130 CMR

² Earned income is 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. (130 CMR 506.003(A)(1)). Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. (130 CMR 506.003(A)(2)). Self-employment income may be a profit or a loss. (Id.). Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return. (130 CMR 506.003(A)(3)). Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. (130 CMR 506.003(A)(4)). Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination. (Id.).

506.007(A)(2)(b); 506.003(D)(10)). In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. (130 CMR 506.007(A)(2)(c)). Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine the eligibility of the individual under the coverage type with the highest income standard. (130 CMR 506.007(A)(3)).

The record shows that the appellant's sole income is \$1,033 per week from employment. Multiplying this figure by 4.333 equals \$4,462.99. The appellant also pays \$63.83 per month in student loan interest. Although the MassHealth representative did not state this, it is clear that MassHealth deducted that \$63.83 in student loan interest from \$4,462.99, which yielded the appellant's monthly countable income of \$4,399.16. This figure is 362.07% of the FPL, but in accordance with the regulations, MassHealth subtracted five percentage points from that FPL percentage and used 357.02% of the FPL as the basis of their eligibility determination.

Children younger than eighteen, young adults ages 19-20, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail individuals⁵ are eligible for MassHealth Standard. (130 CMR 505.002(A)(1)). Persons who receive Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA); persons who receive Transitional Aid to Families with Dependent Children (TAFDC) cash assistance from the Department of Transitional Assistance (DTA); children, young adults, and parents and caretaker relatives who receive Emergency Aid to

³ Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return. (130 CMR 506.003(B)(1)). Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income. (130 CMR 506.003(B)(2)).

⁴ In addition to student loan interest, the following deductions are also allowed when calculating MAGI countable income: educator expenses; reservist/performance artist/fee-based government official expenses; health savings account; moving expenses, for the amount and populations allowed under federal law; one-half self-employment tax; self-employment retirement account; penalty on early withdrawal of savings; alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018 (those finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible); individual retirement account (IRA); scholarships, awards, or fellowships used solely for educational purposes; and other deductions described in the Tax Cut and Jobs Act of 2017, [Public Law 115-97](#) for as long as those deductions are in effect under federal law. (130 CMR 506.003(D)).

⁵ These include an individual with a disabling mental disorder (including children with serious emotional disturbances and adults with serious mental illness); an individual with a chronic substance use disorder; an individual with a serious and complex medical condition; an individual with a physical, intellectual, or developmental disability that significantly impairs their ability to perform one or more activities of daily living; or individual with a disability determination based on Social Security criteria. (See 130 CMR 505.008(F)).

the Elderly, Disabled and Children (EAEDC) cash assistance; and persons who do not otherwise meet the requirements for MassHealth Standard, but who meet the AFDC rules that were in effect on July 16, 1996 are also eligible for MassHealth Standard. (130 CMR 505.002(A)(2)-(5)).

The record shows that the appellant is not currently eligible for MassHealth Standard under any of the above identified categories.

MassHealth CarePlus

(A) Overview.

- (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 old.
- (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: MassHealth: Managed Care Requirements and must meet the following conditions.
 - (a) The individual is an adult 21 through 64 years old.
 - (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% 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.

(130 CMR 505.008(A)).

The appellant is categorically eligible for CarePlus, but her countable income exceeds 133% of the FPL for a household of one and thus she is not financially eligible for CarePlus. Based on the appellant having monthly income equal to 357.07% of the FPL, MassHealth correctly determined that the appellant is not eligible for MassHealth.

For the above reasons, 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957