

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied; Dismissed	Appeal Number:	2313561
Decision Date:	03/28/2024	Hearing Date:	01/23/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Marie Ngonga (Charlestown MEC) *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:	Approved in part; Denied; Dismissed	Issue:	Under 65/Downgrade
Decision Date:	03/28/2024	Hearing Date:	01/23/2024
MassHealth's Rep.:	Marie Ngonga	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Charlestown MassHealth Enrollment Center	Aid Pending:	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 December 13, 2023, MassHealth informed the appellant that she was not eligible for MassHealth because her income was too high. (See 130 CMR 506.007; 505.002; 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 because her income was too high.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.007 and 505.002, in determining that the appellant's income exceeded the income limit to be eligible for MassHealth coverage.

Summary of Evidence

According to the Medicaid Management Information System (MMIS), the appellant is an adult between 21 through 64 years old and a citizen of the United States. (Ex. 3). The appellant received MassHealth Standard as a recipient of TAFDC from November 25, 2017 through January 3, 2024. (Ex. 3). Since December 3, 2023, the appellant has been eligible for the Health Safety Net (HSN) on a temporary basis, and a ConnectorCare plan. (Ex. 3; Ex. 1).

The MassHealth representative testified to the following by telephone. The appellant has a household of two, consisting of herself and her daughter. (Testimony). The appellant's daughter is under 19 years old. (Testimony). The appellant reported a change of income in December 2023, which resulted in MassHealth issuing the notice under appeal. (Testimony; Ex. 1). The appellant reported that her income is \$1,102.47 every two weeks from employment. (Testimony). MassHealth calculated that the appellant's countable income is equal to 140.32% of the federal poverty level (FPL). (Testimony). The income limit for MassHealth Standard is 133% of the FPL, which is \$2,186 per month for a two person household. (Testimony). The appellant is therefore over the income limit for MassHealth Standard. (Testimony). The appellant's daughter is still eligible for MassHealth Standard because she is under 19 years old, and because the household income is under 150% of the FPL, which is \$2,465 per month for a two person household. (Testimony).

The appellant also testified by telephone. The appellant confirmed that she received TAFDC in 2017 when she started receiving MassHealth, but she was no longer receiving TAFDC. (Testimony). The appellant understood MassHealth's position, but she and her daughter were homeless. (Testimony). They were staying in a hotel and all of her income was being used to pay for the hotel because she did not want her daughter to be without shelter. (Testimony). The appellant had her Food Stamps taken away. (Testimony). The appellant was concerned about losing her coverage. (Testimony). The appellant has mental health conditions and requires prescriptions to treat those conditions. (Testimony). Additionally, the appellant had medical appointments scheduled. (Testimony). The appellant stated she thinks that she cannot afford a plan through the Connector. (Testimony). The appellant admitted, however, that she had not yet communicated with the Connector about the plans she was eligible to receive and their costs. (Testimony). The appellant asked whether she was still receiving aid pending the appeal, and the MassHealth representative and hearing officer confirmed that she was. (Testimony).

Subsequent to the hearing, the hearing officer re-opened the record and asked MassHealth if the appellant would be eligible for Transitional Medical Assistance (TMA). (Exhibit 5). The MassHealth representative responded that the appellant would be eligible for MassHealth TMA from July, 2023 to July, 2024. (Exhibit 5). Upon further questioning by the hearing officer, the MassHealth representative agreed that the TMA period would run from December 13, 2023 to December 13, 2024. (Exhibit 5).

Findings of Fact

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

1. The appellant is an adult between from 21 through 64 years old and a citizen of the United States. (Ex. 3).
2. The appellant received MassHealth Standard as a TAFDC recipient from November 25, 2017 through January 3, 2024. (Ex. 3).
3. The appellant has a household of two, consisting of herself and her daughter. (Testimony).
4. The appellant's daughter is under 19 years old. (Testimony).
5. The appellant reported a change of earned income in December 2023. (Testimony)
6. The appellant reported that her income is \$1,102.47 every two weeks from employment. (Testimony).
7. MassHealth calculated that the appellant's countable income was equal to 140.32% of the federal poverty level (FPL). (Testimony).
8. The income limit for MassHealth Standard is 133% of the FPL, which is \$2,186 per month for a two person household. (Testimony).
9. The appellant was therefore over the income limit for MassHealth Standard. (Testimony).
10. MassHealth issued the notice under appeal on December 13, 2023. (Testimony; Ex. 1)
11. The appellant's daughter is still eligible for MassHealth Standard because she is under 19 years old, and because the household income is under 150% of the FPL, which is \$2,465 per month for a two person household. (Testimony).

Analysis and Conclusions of Law

An individual's financial eligibility for MassHealth is determined by first totaling all countable monthly income for each person in that individual's MassHealth MAGI household. (130 CMR 506.007(A)(2); 130 CMR 506.002). 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 income¹ and unearned income² less

¹ 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.

deductions³. (130 CMR 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 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 has a household of two, consisting of one adult from 21 through 64 years old, (the appellant) and one child under the age of 19 years old (the appellant's daughter). The household income is solely from the appellant's earned income, which is \$1,102.47 every two weeks. MassHealth then either multiplied this figure by 2.167, or divided this figure by two and multiplied the result by 4.333. In either case, MassHealth determined that the appellant's gross monthly income was \$2,389.05. This figure is 145.32% of the FPL for a household of two.⁴ In accordance with the regulations, MassHealth subtracted five percentage points from that FPL percentage and used 140.32% of the FPL as the basis of the

(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.).

² 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)).

³ 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; student loan interest; 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)).

⁴ 100% of the FPL for a household of two is \$1,644 per month. \$2,389.05 divided by \$1,644 is 1.4032 or 140.32% of \$1,644.

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 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 has categorical eligibility for MassHealth Standard as the parent of a child under age 19. A parent of a child younger than 19 years old is eligible for MassHealth Standard coverage if the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the FPL; the individual is a citizen; and the individual lives with their children. (130 CMR 502.005(C)(1)). The appellant is a parent of a child under the age of 19, lives with her child, and is a citizen. The appellant's income is \$2,389.05 per month. For the purposes of determining her eligibility, this places the appellant at 140.32% of the FPL. In order to receive MassHealth Standard, the appellant would need to earn no more than \$2,186 per month (now \$2,266 as of 3/1/24), which is 133% of the FPL for a household of two. The appellant is therefore over the income limit for MassHealth Standard.

An individual may be eligible for MassHealth CarePlus Direct if they are an adult from 21 through 64 years old, a U.S. citizen, ineligible for MassHealth Standard, compliant with 130 CMR 505.008(C), not enrolled or eligible for Medicare Parts A or B, and adjusted gross income that is less than or equal to 133% of the FPL. The appellant is categorically eligible for CarePlus, but her countable income exceeds 133% of the FPL for a household of two. Thus, she is not financially eligible for CarePlus either.

Extended Eligibility...

(3) Members of a MassHealth MAGI household who receive MassHealth Standard (whether or not they receive TAFDC) and have earnings that raise the MassHealth MAGI household's

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)).

modified adjusted gross income above 133% of the federal poverty level (FPL) continue to receive MassHealth Standard for a full 12-calendar-month period that begins with the date on which the members MAGI exceeds 133% of the federal poverty level (FPL) if

(a) the MassHealth household continues to include a child younger than 19 years old living with the parent or caretaker;

(b) a parent or caretaker relative continues to be employed;

(c) the parent or caretaker relative complies with 130 CMR 505.002(M); and

(d) the member is a citizen or a qualified noncitizen.

(4) MassHealth independently reviews the continued eligibility of the TAFDC, EAEDC, and MassHealth MAGI households at the end of the extended period described in 130 CMR 505.002(L)(1) through (3).

(130 CMR 505.002(L)(3), (4)).

Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007: Potential Sources of Health Care, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: Premium Assistance Payments. Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided. (130 CMR 505.002(M)).

The appellant reported an increase in her earned income in December, 2023, which put her income over 133% of the federal poverty level. The appellant continues to be employed and continues to live with a child under age 19. It was not reported at the hearing if the appellant has available health insurance that is of no greater cost to the appellant than if she did not have access to health insurance. Accordingly, the appellant is eligible for extended eligibility for MassHealth Standard for the 12 month period beginning December 13, 2023. The MassHealth representative agreed to this, subsequent to the hearing. The appeal is approved/dismissed insofar as the appellant has extended MassHealth Standard eligibility for a limited time until next review in December, 2024, but is denied in that, aside from the TMA period for MassHealth Standard, the appellant is not otherwise eligible for MassHealth.

Order for MassHealth

If MassHealth has not already done so, remove aid pending and approve the appellant for extended eligibility for MassHealth Standard pursuant to 130 CMR 505.002(L) to run from

December 13, 2023 to December 13, 2024.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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:

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