

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Numbers:	2313757 & 2313785
Decision Date:	3/25/2024	Hearing Date:	01/26/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Joseph Miller, Quincy MEC

Interpreter:



*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:	Eligibility; Under 65; Income
Decision Date:	3/25/2024	Hearing Date:	01/26/2024
MassHealth's Rep.:	Joseph Miller, Quincy	Appellant's Reps.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (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 two notices dated 10/23/23, MassHealth informed Appellant FB and Appellant AD (collectively the Appellants) that they no longer qualified for MassHealth Limited because their income exceeded program limits. See Exh. 1 and 2. Through a third notice dated 10/23/23, MassHealth approved Appellants' minor daughter for continued Family Assistance. See Exh. 3. On 12/26/23, Appellants filed timely requests to appeal the three notices. See 130 CMR 610.015 and Exhs. 4 and 5.¹ Denial and/or reduction of assistance is valid grounds for appeal. See 130 CMR 610.032.

The appeals were initially scheduled as individual hearings for each Appellant.² See Exhs. 6-7. At the outset of the first scheduled hearing, both Appellants appeared by video and requested to have their individual appeals consolidated into a single appeal. The request was granted pursuant to 130 CMR §§ 610.013 and 610.073.³

¹ Appellant [REDACTED] signed and filed the appeal on behalf of the daughter. Appellant [REDACTED] designated Appellant [REDACTED] as his appeal representative. See id.

² BOH scheduled the hearing for Appellant [REDACTED] as Appeal No. 2313757 and scheduled Appellant [REDACTED] as Appeal No. 2313785.

³ As discussed herein, the notices under appeal stem from a single household application and share overlapping

Action Taken by MassHealth

MassHealth (1) determined that Appellants no longer qualified for Limited because their income exceeded the program limit and ended their coverage on 11/6/23; and (2) determined that their minor child remained eligible for Family Assistance.

Issue

The appeal issues are whether MassHealth was correct in ending Appellants' Limited coverage on 11/6/23 due to their income, and whether MassHealth correctly reappraised their daughter for continued Family Assistance.

Summary of Evidence

The MassHealth representative appeared at the hearing by video conference and testified as follows: Appellants are domestic partners and have two children: one minor child between the ages of one (1) and eighteen (18) and one adult child over the age of 18. Appellants had been enrolled in MassHealth Limited and their benefits remained protected through the duration of the Covid-19 public health emergency (PHE). During this time, their minor child was enrolled in Family Assistance. In October of 2023, after the PHE continuous coverage protections had been lifted, Appellant FB completed a renewal for the household and manually verified that she receives monthly income of \$1,600 and her domestic partner, Appellant AD, receives monthly income of \$2,600. Appellant [REDACTED] is listed as head of household (HOH) on the application. The application shows that Appellant [REDACTED] is a tax-filer and that Appellant [REDACTED] and their two children are claimed as tax dependents. The MassHealth representative testified that Appellants have an immigration status as "individual lawfully present" (ILP), which was verified using employment immigration authorization cards. Currently, ILP adults are ineligible for MassHealth Standard.

On 10/23/23 MassHealth issued notices to each of the Appellants and their daughter regarding their eligibility for MassHealth benefits based on the information provided through the renewal. The representative explained that the household composition and modified adjusted gross income (MAGI) for each member was treated differently based on their tax filing status, which therefore placed them at different federal poverty levels (FPLs) as follows:

On 10/23/23, MassHealth notified Appellant [REDACTED] that she did not qualify for MassHealth benefits because her income exceeded program limits. As a tax filer claiming three dependents, Appellant [REDACTED] was deemed to be in a household size of 4 and MassHealth therefore counted both her and her domestic partner's combined gross monthly income of \$4,200 (\$1,600 +

issues of fact and law. See id.

\$2,600) and placed her at 202.99% of the FPL. To qualify for Limited, the household income must not exceed 133% of the FPL, which for a household of 4 is \$3,325. Because Appellant [REDACTED] household income exceeded the regulatory limit, MassHealth ended her coverage on 11/6/23.

On 10/23/23, MassHealth notified Appellant [REDACTED] that he did not qualify for MassHealth benefits because his income exceeded program limits. Because he was claimed as a tax dependent and fell within the non-tax filer exception rule, MassHealth deemed him to be in a household size of 2 (consisting of himself and his minor daughter) and therefore counted only his income of \$2,600 which placed him at 153.22% of the FPL. To meet the 133% of the FPL to qualify for Limited, the income for a household size of two must not exceed \$2,186. Because Appellant [REDACTED] household income exceeded the regulatory limit, MassHealth ended his coverage on 11/6/23.

Through another notice dated 10/23/23, MassHealth notified Appellant [REDACTED] as HOH, that her minor daughter was approved for continued Family Assistance. Using non-tax-filer rules for individuals under 18 living with both parents, MassHealth considered the minor daughter to be in a household size of three, and used her parents combined gross monthly income of \$4,200 (\$1,600 + \$2,600) placing her at an FPL of 246%. Although individuals under the age of 19 with an ILP immigration status may qualify for MassHealth Standard, they must have a household income that does not exceed 150% of FPL. The next most comprehensive coverage she was eligible for is Family Assistance. Because her FPL was under 300%, she continued to remain eligible for Family Assistance and there was no change in coverage.

The MassHealth representative indicated that during a pre-hearing conversation with Appellants on 1/24/24, the HOH reported that she would *not* be claiming her domestic partner as a tax dependent. MassHealth thus adjusted the case by removing the domestic partner and his income from the household, changing Appellant [REDACTED] household size from 4 to 3 and counted only her monthly income of \$1,600 placing her at 120.49% of the FPL. Because this placed her under 133% of the FPL, she subsequently was approved for Limited effective 1/14/24. Appellant [REDACTED] is now in a household size of one with countable income of \$2,600 and still exceeds the limit to qualify for Limited. Appellants' daughter's household composition remained the same based on the non-tax filer rules and her FPL and eligibility remains the same.

Appellants appeared by video conference and testified that they did not understand why their coverage ended. There had been no recent changes to income and their family needs MassHealth. The family did not dispute the income as reported on 10/23/23, which was used for purposes of determining eligibility. Appellant [REDACTED] did, however, note that he is self-employed, and his income changes and it is currently less than previously reported. Appellants also wanted to know whether their daughter would be eligible for a better coverage type than Family Assistance.

In response, the MassHealth representative indicated that they had been over the income limit for Limited for a while, but their coverage had not been downgraded previously because of the PHE continuous coverage protection. Because the protection is no longer in effect, MassHealth is making eligibility determinations in accordance with its traditional financial eligibility rules and limits. If income has changed, Appellants may provide MassHealth with updated income information and this will generate a new eligibility determination. As of the date of hearing, the most updated income information on file was based on the 10/23/23 income reported through the renewal.

Findings of Fact

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

1. Appellants are domestic partners and have two children: one minor child between the ages of one and 18, and one adult child.
2. Appellants and their minor child have a verified immigration status as ILP.
3. Appellants were enrolled in MassHealth Limited and their daughter was enrolled in Family Assistance during the PHE.
4. In October of 2023, after the PHE continuous coverage protections were lifted, Appellant ■ completed a renewal for the household and manually verified that she receives monthly income of \$1,600 and Appellant ■ receives monthly income of \$2,600.
5. Using the renewal information, MassHealth determined Appellant ■ to be in a household size of 4 with total countable household income of \$4,200.
6. MassHealth determined Appellant ■ to be in a household size of 2 (consisting of himself and his minor daughter) and counted his income of \$2,600.
7. Through two notices dated 10/23/23, MassHealth notified Appellants that they did not qualify for MassHealth benefits because their respective household incomes exceeded the program limit.
8. Appellants' Limited coverage ended on 11/6/23.
9. Using non-tax-filer rules for individuals under 18 living with both parents, MassHealth considered the minor daughter to be in a household size of three, and used her parents combined gross monthly income of \$4,200 (\$1,600 + \$2,600) placing her at an FPL of 246%.

10. Through a notice dated 10/23/23, MassHealth notified Appellant [REDACTED] as HOH, that her minor daughter was approved for continued Family Assistance.
11. MassHealth did not receive information that Appellant [REDACTED] would *not* be claiming her domestic partner as a tax dependent until 1/24/24.
12. As of the hearing date, Appellants had not updated MassHealth to report a different income amount.

Analysis and Conclusions of Law

This appeal addresses (1) whether MassHealth was correct in ending Appellants' Limited coverage on 11/6/23 due to their income, and (2) whether MassHealth correctly reapproved their daughter for continued Family Assistance. 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, 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
- (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. The evidence indicates that Appellants and their daughter have a verified immigration status of “Nonqualified Individuals Lawfully Present” (“ILP”) as defined in 130 CMR 504.003(A)(3). As adults between the ages of 21 and 65, the only MassHealth coverage type Appellants are categorically eligible for is MassHealth Limited. The income limit for this applicable coverage type is outlined as follows:

505.006: MassHealth Limited

(1) MassHealth Limited is available to the following:

...

- (c) qualified noncitizens barred, as described in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, and **nonqualified individuals lawfully present, as described in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present*** who are
1. **adults, including parents and caretaker relatives, 21 through 64 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL;**

....

130 CMR 505.506.(B) (emphasis added in bold).

Appellants’ minor daughter, as an ILP between the age of one and eighteen, is categorically eligible for the more comprehensive coverage types of Standard and Family Assistance. The financial eligibility criteria for Standard is outlined, in relevant part, as follows:

(B) Eligibility Requirements for Children and Young Adults. Children and young adults may establish eligibility for MassHealth Standard coverage subject to the requirements described in 130 CMR 505.002(B).

...

(2) Children One through 18 Years Old.

(a) A child one through 18 years old is eligible if

1. the modified adjusted gross income of the MassHealth MAGI household **is less than or equal to 150% of the federal poverty level;** and
2. the child is a citizen as described in 130 CMR 504.002: U.S. Citizens or **a lawfully present immigrant as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*.**

130 CMR 505.002(B) (emphasis added in bold).

The financial eligibility criteria for Family Assistance is outlined, in relevant part, as follows:

(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.**

130 CMR 505.005(A)(emphasis added in bold).

To determine whether Appellants and their daughter were financially eligible for the applicable coverage types discussed above, MassHealth had to first determine the income and household composition for each member. See 130 CMR 506.001. It is undisputed that Appellant [REDACTED] receives \$1,600 monthly and Appellant [REDACTED] receives \$2,600 monthly.

In her renewal, Appellant [REDACTED] identified herself as a “taxpayer not claimed as a dependent.” Thus, her household composition was determined in accordance with the following rules:

(B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on Their 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 their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer’s spouse, if living with them regardless of filing status;
- (c) **all persons the taxpayer expects to claim as tax dependents**; and
- (d) 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)(emphasis added).

In accordance with 130 CMR 506.002, MassHealth appropriately determined that Appellant [REDACTED] was in a household size of 4 (consisting of herself, domestic partner, and two children) with a combined household income of \$4,200 per month. At the time the eligibility determination was made, the income for an individual in a household size of 4 at 133% of the FPL, was \$3,325 per-month. See 2023 MassHealth Income Standards & Federal Poverty Guidelines.⁴ Appellant [REDACTED] household income thus exceeded the allowable amount to qualify for Limited. MassHealth did not err in issuing the 10/23/23 eligibility notice.

⁴ 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>.

Next, MassHealth correctly applied the non-tax filer exception rules in determining the household composition for Appellant [REDACTED] and Appellants' daughter.⁵ See 130 CMR 506.002(B)(2). Under the exception, MassHealth determines individual member's household composition in accordance with the following rules:

(3) Individuals Who Do Not File a Federal Tax Return and Are Not Claimed as a Tax Dependent on a Federal Tax Return. For an individual who does not expect to file a federal tax return and who does not expect to be claimed as a tax dependent on a federal tax return **or when any of the exceptions described at 130 CMR 506.002(B)(2)(b)1., 2., or 3. apply**, the household consists of

- (a) the individual;
- (b) the individual's spouse if living with them;
- (c) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them;
- (d) for individuals younger than 19 years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than 19 years old if living with them; and
- (e) if any individual described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children.

130 CMR 506.002(B)(3).

Using the non-tax filer rules, MassHealth appropriately determined that Appellant [REDACTED] was in a household size of two (2), including himself and his minor daughter, and thus only counted his income of \$2,600. At the time the eligibility determination was made, the income for an individual in a household size of 2 at 133% of the FPL was \$2,186 per month. See 2023 MassHealth Income Standards & Federal Poverty Guidelines. Appellant [REDACTED] household income thus exceeded the allowable amount to qualify for Limited. MassHealth did not err in issuing the 10/23/23 eligibility notice.

Using the non-tax filer rules, MassHealth correctly determined that Appellants' daughter was in a household size of three, consisting of herself and her two parents and counted her parents' combined income of \$4,200 per-month. At the time the eligibility determination was made, the income for an individual in a household size of 3 at 150% of the FPL was \$3,108 per month and

⁵ MassHealth has carved out an exception for certain individuals whose household composition would otherwise be determined in accordance with the rule for "Individuals Claimed as a Tax Dependent on Federal Income Taxes." The exception states, in relevant part, that "[h]ousehold 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 expected 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;..." 130 CMR 506.002(B)(2)(b).

the income for an individual in a household of 3 at 300% of the FPL was \$6,215 per month. See 2023 MassHealth Income Standards & Federal Poverty Guidelines. Thus, Appellants' daughter's household income exceeded the allowable amount to qualify for Standard but was below 300% of the FPL to qualify for Family Assistance. MassHealth therefore correctly approved Appellants' minor daughter for Family Assistance in accordance with its 10/23/23 notice.

Based on the foregoing, this appeal is DENIED.

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.

Casey Groff. Esq.
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171