

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part/ Denied in part	Appeal Number:	2400461
Decision Date:	02/08/2024	Hearing Date:	02/01/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Taylor Edwards, 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:	Approved in part/ Denied in part	Issue:	Eligibility; Under 65
Decision Date:	02/08/2024	Hearing Date:	02/01/2024
MassHealth's Rep.:	Taylor Edwards	Appellant's Rep.:	Pro se
Hearing Location:	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 December 26, 2023, MassHealth notified Appellant that her minor child was approved for Family Assistance with a \$20 monthly premium effective September 8, 2023 (130 CMR 505.001, 505.002, 505.005 and Exhibit 1). Appellant filed this appeal in a timely manner on January 8, 2024 (130 CMR 610.015(B) and Exhibit 2). Notice of an eligibility determination for MassHealth coverage and a premium due is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant that her minor child was approved for Family Assistance with a \$20 monthly premium effective September 8, 2023.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 505.002, 505.005, 506.011 in notifying Appellant that her minor child was eligible for Family Assistance with a \$20 monthly premium effective September 8, 2023.

Summary of Evidence

MassHealth testified that Appellant's minor child was receiving MassHealth Standard coverage which was protected during the Public Health Emergency related to the pandemic. On September 18, 2023, a renewal application was completed by Appellant's representative. MassHealth issued a notice informing Appellant that her minor child was eligible for Family Assistance with a \$20 monthly premium effective September 8, 2023. MassHealth testified that Appellant's minor child is between one and 18 years of age, a U.S. citizen, and no longer eligible for Standard coverage due to household income that exceeds program limits. Appellant's household size is 4, including Appellant, her spouse, her minor child who is between one and 18 years of age, and her child who is [REDACTED] years of age. Verified household income totals \$4,533.33 monthly, which MassHealth testified equates to 252.16% of the federal poverty level. Household income consists of Appellant's self-employment income totaling \$1,200 per month, and her spouse's income totaling \$3,333 per month. Although a potential disability was indicated, Appellant's minor child has not been determined disabled by either the Social Security Administration or Disability Evaluation Services/MassHealth, and a MassHealth disability supplement has not been submitted to MassHealth. Because income exceeds \$3,750 per month, coverage was changed to Family Assistance. MassHealth testified that a disability supplement would be mailed to Appellant.

Appellant testified that household income and household size are correct and added that she and her spouse have been employed for more than a year. Appellant testified that her minor child is disabled, and she will complete and return the disability supplement.

Findings of Fact

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

1. Appellant's minor child was receiving MassHealth Standard coverage which was protected during the Public Health Emergency related to the pandemic.
2. On September 18, 2023, a renewal application was completed, and MassHealth issued notice informing Appellant that her minor child is eligible for Family Assistance with a \$20 monthly premium effective September 8, 2023.
3. Appellant's household size is 4, including Appellant, her spouse, her minor child who is a U.S. citizen and is between one and 18 years of age, and her [REDACTED]¹

¹ It is unclear whether Appellant's household is 4 or 3 based on tax filing status. Appellant's [REDACTED] child's tax return was submitted to the Board of Hearings with the appeal request and does not show her as a tax dependent claimed by another tax filer (Exhibit 4, p. 13). While inconsequential because income exceeds program limits for Appellant's minor child who is between one and 18 years of age as a household of 3 or 4, for purposes of this hearing decision, which does not address eligibility for other household members, the higher income standard for

4. Household income consists of Appellant's self-employment income totaling \$1,200 per month, and her spouse's income totaling \$3,333 per month.
5. Total household income is \$4,533 per month, which equates to 181.32% of the federal poverty level for a household size of 4.²
6. Applicable federal poverty levels for a household of 4 are: 150%: \$3,750; 200%: \$5,000 300%: \$7,500.
7. Appellant's minor child who is between one and 18 years of age has not been determined disabled by the Social Security Administration or Disability Evaluation Services/MassHealth and a disability supplement has not been submitted to 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.³ On September 18, 2023, Appellant completed an annual review, and MassHealth issued a notice informing Appellant that MassHealth Standard coverage for her minor child who is between one and 18 years of age was changing to Family Assistance with a \$20 monthly premium. Appellant's minor child's eligibility is determined based on MassHealth coverage criteria.⁴ 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

a household size of 4 is applied. MassHealth also testified that only Appellant's and her spouse's income were used in determining eligibility for Appellant's minor child who is between one and 18 years of age. Documentation submitted to the Board of Hearings was forwarded to MassHealth (Exhibit 4).

² Household income equates to 181.32% of the federal poverty level ($\$4,533/\$2,500$ (100% of the federal poverty level) = $1.8132 \times 100 = 181.32\%$). MassHealth testified to 252.16%; and the notice dated December 26, 2023 indicates 247.16%.

³ See Eligibility Operations Memo 23-11 April 2023.

⁴ See Eligibility Operations Memo 23-18 July 2023.

- 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 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 are correctly included in the household composition.^{5,6} Countable household income includes earned, unearned, and

⁵ (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

rental income,⁷ less deductions described in 130 CMR 506.003(D), none of which were asserted as applicable by Appellant at hearing.⁸

Appellant's minor child is between one and 18 years of age and has not been determined disabled by either the Social Security Administration or Disability Evaluation Services/MassHealth.⁹ Gross monthly household income is \$4,533 which falls between 150% and 200% of the federal poverty level for a household of 4, \$3,750 and \$5,000 respectively. Appellant's minor child who is between one and 18 years of age is not eligible for MassHealth Standard because income exceeds 150% of the federal poverty level or \$3,750 per month (130 CMR 505.002(B)(2)) and is not eligible for CommonHealth because he has not been determined permanently and totally disabled (130 CMR 505.004(G)).¹⁰ Appellant's child is not eligible for CarePlus which applies to adults between 21 and 64 years of age (130 CMR 505.008). Appellant's child is between one and 18 years of age, a U.S. citizen, and is eligible for MassHealth Family Assistance because household income is between 150% and 300% of the federal poverty level, \$3,750 and \$7,500 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): Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 150% and Less than or Equal to 300% of the Federal Poverty Level, directs that for income above 150% but below 200% of the federal poverty level a \$12 premium applies.

The appeal is DENIED in that MassHealth correctly determined that Appellant's minor child who is between one and 18 years of age is eligible for Family Assistance with a monthly premium. The appeal is APPROVED in that MassHealth incorrectly determined the corresponding federal

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.

⁶ See fn. 1.

⁷ See 130 CMR 506.003 (A)-(C).

⁸ 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 savings; (8) alimony paid to a former spouse; (9) individual retirement account (IRA); (10) student loan interest; and (11) higher education tuition and fees.

⁹ 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)).

¹⁰ 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.

poverty level percentage and a \$20 premium for MassHealth Family Assistance.

Order for MassHealth

Determine a \$12 per month premium for Family Assistance retroactive to September 8, 2023. Reimburse Appellant the difference between \$12 and \$20 monthly premiums Appellant has paid since September 8, 2023.

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.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

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