

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2400653
Decision Date:	4/10/2024	Hearing Date:	02/07/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Jeffrey Pamphile, Charlestown MEC
Sarah Prado, Premium Assistance



*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: Employer Sponsored Insurance; Premium Assistance
Decision Date:	4/10/2024	Hearing Date:	02/07/2024
MassHealth's Rep.:	Jeffrey Pamphile; Sarah Prado	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	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 January 3, 2024, MassHealth terminated the Appellant's MassHealth coverage because the Appellant did not enroll in the required employer-sponsored health insurance. 130 CMR 503.007 and Exhibit 1. The Appellant filed this appeal in a timely manner on January 12, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth coverage, effective January 17, 2024.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 503.007, in determining that the Appellant was required to enroll in employer-sponsored health insurance to continue receiving MassHealth benefits?

Summary of Evidence

The hearing was conducted by telephone. MassHealth was represented by a benefits eligibility specialist with the Charlestown MassHealth Enrollment Center and a Premium Assistance representative. The Appellant verified her identity.

MassHealth testified as follows: the Appellant is an adult between the ages of 21-64, and has a household size of five, consisting of the Appellant, the Appellant's husband, and three children under the age of 19. The household has a monthly income of \$7,452.76, which is equal to 249% of the federal poverty level, accounting for the 5% deduction. The Appellant was eligible for extended eligibility for MassHealth Standard as a secondary coverage type through the Transitional Medical Assistance program, with the Appellant's husband's employer-sponsored insurance as the primary coverage.¹ MassHealth sent the employer a qualifying event letter on October 30, 2023, and the Appellant is eligible for premium assistance, whereby MassHealth will contribute to the cost of employer-sponsored insurance premium.

The Appellant testified that she has received multiple notices from MassHealth and that it is confusing, because the notices state different things and when she calls MassHealth, she gets different answers. The Appellant testified that she had previously had negative experiences with employer-sponsored insurance and premium assistance. Specifically, the Appellant's household did not always receive the premium assistance payments and was dissatisfied with the employer-sponsored insurance due to the cost, and lack of coverage and available doctors nearby. The Appellant explained that she had previously contacted MassHealth and that they had allowed the household to be enrolled in MassHealth Standard without premium assistance or the need to be enrolled in employer-sponsored insurance. The Appellant agreed with the household income information testified to by MassHealth. The Appellant explained that she had tried to enroll in health insurance through the Health Connector but was unable to because of an administrative closure on her account.

In response to the Appellant's testimony, MassHealth testified that the employer-sponsored plan met the basic benefit level and qualified for premium assistance benefits. MassHealth also stated that the administrative closure had been removed from the Appellant's account.

Findings of Fact

¹ The Appellant's husband's employer is [REDACTED]

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

1. The Appellant is an adult between the ages of 21-64 years old (Testimony, Exhibit 4).
2. The Appellant has a household size of five, consisting of the Appellant, her husband, and three children under the age of 19 (Testimony).
3. The household has a monthly income of \$7,452.76, which is equal to 249% of the federal poverty level, accounting for the 5% deduction (Testimony).
4. The employer-sponsored insurance available to the Appellant meets the basic benefit level to qualify for premium assistance (Testimony).

Analysis and Conclusions of Law

The MassHealth regulations provide as follows:

503.007: Potential Sources of Health Care

The MassHealth agency is the payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law.

(A) Health Insurance. Every applicant and member must obtain and maintain available health insurance in accordance with 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*. Failure to do so may result in loss or denial of eligibility unless the applicant or member is

- (1) receiving MassHealth Standard or MassHealth CommonHealth; and
- (2) younger than 21 years old or pregnant.

(B) Use of Benefits. The MassHealth agency does not pay for any health care and related services that are available

- (1) through the member's health-insurance, if any; or
- (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services.

(C) Employer-sponsored Health Insurance. The MassHealth agency may enroll MassHealth members in available employer-sponsored health insurance if that insurance meets the criteria for payment of premium assistance under 130 CMR 506.012(B): *Criteria*.
130 CMR 503.007.

505.002: MassHealth Standard

(A) Overview.

(1) 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, 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 as such term is defined in 130 CMR 505.008(F).

....

(C) Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

(b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and

(c) 1. the parent lives with their children, and assumes primary responsibility for the child's care in the case of a parent who is separated or divorced, has custody of their children, or have children who are absent from home to attend school; or
2. the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care, if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M).

....

(L) Extended Eligibility.

(1) Members of an EAEDC or TAFDC household whose cash assistance terminates continue to receive four months of MassHealth Standard coverage beginning in the month the household became ineligible if they are

(a) terminated from EAEDC or TAFDC and are determined to be potentially eligible for MassHealth; or

(b) terminated from TAFDC because of receipt of, or an increase in, spousal or child support payments.

(2) Members of a TAFDC household who become ineligible for TAFDC for employment-related reasons continue to receive MassHealth Standard for a full 12-calendar-month period beginning with the date on which they became ineligible for TAFDC if

(a) the household continues to include a child;

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

- (c) the parent or caretaker relative complies with 130 CMR 505.002(M).
- (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 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).
- (5) If an individual in a MassHealth MAGI household who receives MassHealth under 130 CMR 505.002(L)(1) or (2) had income at or below 133% of the FPL during their extended period, and now has income including earnings that raise the MassHealth MAGI modified adjusted gross income above that limit, the MassHealth MAGI household is eligible for another full 12-calendar-month period that begins with the date on which the member's 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; and
 - (c) the parent or caretaker relative complies with 130 CMR 505.002(M).
- (6) If a MassHealth MAGI household's modified adjusted gross income decreases to 133% of the FPL or below during its extended eligibility period, and the decrease is timely reported to MassHealth, the MassHealth MAGI household's eligibility for MassHealth Standard may be redetermined. If the MassHealth MAGI household's gross income later increases above 133% of the FPL, the MassHealth MAGI household is eligible for a new extended eligibility period.

(M) 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.

(N) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Standard.

- (1) MassHealth may perform an investigation to determine if individuals receiving MassHealth Standard
 - (a) have health insurance that MassHealth may help pay for; or
 - (b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.
- (2) The individual receives MassHealth Standard while MassHealth investigates the insurance.
 - (a) Investigations for Individuals Who Are Enrolled in Health Insurance.
 1. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: Premium Assistance Payments, the individual is notified in writing that MassHealth will provide MassHealth Standard Premium Assistance Payments as described at 130 CMR 506.012: *Premium Assistance Payments*.
 2. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is eligible for MassHealth Standard Direct Coverage.
 3. Individuals described at 130 CMR 505.002(F)(1)(d) will not undergo an investigation.
 - (b) Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance.
 1. If MassHealth determines the individual has access to employer-sponsored health insurance and the employer is contributing at least 50% of the premium cost and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Standard Premium Assistance Payments as described in 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 21 years old or is pregnant.
 2. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual is eligible for MassHealth Standard Direct Coverage.
 3. Individuals described at 130 CMR 505.002(F) and (G) will not undergo an Investigation.

130 CMR 505.002.

506.012: Premium Assistance Payments

(A) Coverage Types. Premium assistance payments are available to MassHealth members who

are eligible for the following coverage types:

- (1) MassHealth Standard, as described in 130 CMR 505.002: *MassHealth Standard*, with the exception of those individuals described in 130 CMR 505.002(F)(1)(d);
- (2) MassHealth Standard for Kaileigh Mulligan, as described in 130 CMR 519.007: *Individuals Who Would Be Institutionalized*;
- (3) MassHealth CommonHealth, as described in 130 CMR 505.004: *MassHealth CommonHealth*;
- (4) MassHealth CarePlus, as described in 130 CMR 505.008: *MassHealth CarePlus*;
- (5) MassHealth Family Assistance for HIV-positive adults and HIV-positive young adults, as described in 130 CMR 505.005(E): *Eligibility Requirements for HIV-positive Individuals Who Are Citizens or Qualified Noncitizens with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 133 and Less than or Equal to 200% of the Federal Poverty Level*;
- (6) MassHealth Family Assistance for disabled adults whose Disabled Adult MassHealth household income is at or below 100% of the FPL and who are qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs, as described in 130 CMR 505.005(C): *Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level*;
- (7) MassHealth Family Assistance for children younger than 19 years old and young adults 19 through 20 years old whose household MAGI is at or below 150% of the FPL and who are nonqualified PRUCOLs, as described in 130 CMR 505.005(C): *Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level*; and
- (8) MassHealth Family Assistance for children younger than 19 years old whose household MAGI is between 150% and 300% of the FPL and who are citizens, protected noncitizens, qualified noncitizens barred, nonqualified individuals lawfully present, and nonqualified PRUCOLs, as described in 130 CMR 505.005(C): *Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level*.

(B) Criteria. MassHealth may provide a premium assistance payment to an eligible member when all of the following criteria are met.

- (1) The health insurance coverage meets the Basic Benefit Level (BBL) as defined in 130 CMR 501.001: *Definition of Terms*. Instruments including, but not limited to, Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.
- (2) The health insurance policy holder is either
 - (a) in the PBFG; or
 - (b) resides with the individual who is eligible for the premium assistance benefit and

is related to the individual by blood, adoption, or marriage.

(3) At least one person covered by the health insurance policy is eligible for MassHealth benefits as described in 130 CMR 506.012(A) and the health insurance policy is a policy that meets the criteria of the MassHealth coverage type for premium assistance benefits as described in 130 CMR 506.012(C).

(C) Eligibility. Eligibility for MassHealth premium assistance is determined by the individual's coverage type and the type of private health insurance the individual has or has access to. MassHealth has three categories of health insurance for which it may provide premium assistance.

(1) Employer-sponsored Insurance (ESI) 50% Plans are employer-sponsored health insurance plans to which the employer contributes at least 50% towards the monthly premium amount. MassHealth provides premium assistance for individuals with ESI 50% Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A).

(2) Other Group Insurance Plans are employer-sponsored health insurance plans to which the employer contributes less than 50% towards the monthly premium amount, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, and Other Group Health Insurance. MassHealth provides premium assistance for individuals with Other Group Health Insurance Plans who are eligible for MassHealth coverage types as described in 130 CMR 506.012(A), except for individuals described in 130 CMR 506.012(A)(8).

(3) Non-group unsubsidized Health Connector individual plans for children only, provided that such plans shall no longer be eligible for premium assistance as of January 1, 2019, and the last premium assistance payment for these plans shall be for coverage through December 31, 2018.

(4) Members enrolled in any of the following types of health insurance coverage are not eligible for premium assistance payments from MassHealth:

- (a) Medicare supplemental coverage, including Medigap and Medex coverage;
- (b) Medicare Advantage coverage;
- (c) Medicare Part D coverage; and
- (d) Qualified Health Plans (QHP).

(5) The following MassHealth members are not eligible for premium assistance payments as described in 130 CMR 506.012(C) from MassHealth:

(a) MassHealth members who have Medicare coverage. However, for those members who meet the eligibility requirements set forth in 130 CMR 505.002(O), Medicare Savings Program benefits may be available;

(b) all nondisabled nonqualified PRUCOL adults, as described in 130 CMR 505.005(D): *Eligibility Requirements for Adults and Young Adults 19 and 20 Years of Age Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 300% of the Federal Poverty Level*; and

(c) disabled nonqualified PRUCOL adults with MassHealth Disabled Adult household income above 100% of the FPL, as described in 130 CMR 505.005(F): *Eligibility Requirements for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified*

Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal Poverty Level.

130 CMR 506.012(A), (B), (C).

Here, the Appellant is a parent and lives with her children, who are younger than 19 years old. Based on the testimony presented at hearing, the Appellant is not financially eligible for MassHealth Standard, because there is no dispute that the Appellant's household income is \$7,452.76 monthly, which equals 249% of the federal poverty level, accounting for the 5% deduction.²

The MassHealth representative testified that the Appellant was eligible for Transitional Medical Assistance, seemingly under 130 CMR 505.002(L)(5). This extended eligibility requires that the member follow 130 CMR 505.002(M) and 130 CMR 503.007, which direct members to enroll in available health insurance, including employer-sponsored health insurance. Accordingly, MassHealth did not err in issuing the January 3, 2024, notice terminating the Appellant's coverage for failure to enroll in employer-sponsored health insurance.

Order for MassHealth

None. End Aid Pending.

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.

Emily Sabo
Hearing Officer
Board of Hearings

² No evidence was presented to suggest that the Appellant is pregnant or has breast or cervical cancer, which allow for income that is 200% or 250% of the federal poverty level, respectively.

cc:

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

MassHealth Representative: Premium Assistance