

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2400806
Decision Date:	3/25/2024	Hearing Dates:	02/15/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Omira Canelo, Tewksbury MEC



*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
Decision Date:	3/25/2024	Hearing Date:	02/15/2024
MassHealth's Rep.:	Omira Canelo	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 26, 2023, MassHealth notified Appellant that her MassHealth coverage was downgraded to Health Safety Net effective December 16, 2023; also on December 26, 2023, a notice was issued informing Appellant that coverage for her minor child was downgraded to Family Assistance; and through a third notice dated January 8, 2024, MassHealth notified Appellant that she was not eligible for MassHealth benefits and was approved for the Health Safety Net (130 CMR 505.000 et seq. and Exhibits 1A-1C). Appellant filed this appeal in a timely manner on January 17, 2024 and has been receiving continued coverage pending the outcome of the appeal (130 CMR 610.015(B), 610.036 and Exhibit 2). Notice of termination of MassHealth benefits is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

Through a notice dated December 26, 2023, MassHealth notified Appellant that her MassHealth coverage was downgraded to Health Safety Net effective December 16, 2023; also on December 26, 2023, a notice was issued informing Appellant that coverage for her minor child was downgraded to Family Assistance; and through a third notice dated January 8, 2024, MassHealth notified Appellant that she was not eligible for MassHealth benefits and was approved for the Health Safety Net.

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 she is not eligible for MassHealth benefits, and that her minor child is eligible for Family Assistance with a \$12 monthly premium.

Summary of Evidence

Through a notice dated December 26, 2023, MassHealth notified Appellant that her MassHealth coverage was downgraded to Health Safety Net effective December 16, 2023 (Exhibit 1C). Also on December 26, 2023, a notice was issued informing Appellant that coverage for her minor child was downgraded to Family Assistance (Exhibit 1B). On January 3, 2024, Appellant provided updated income information to MassHealth, and on January 8, 2024, MassHealth notified Appellant that she was not eligible for MassHealth benefits and was approved for the Health Safety Net (Exhibit 1A). Appellant was receiving MassHealth Standard benefits which are protected during the appeal process. Appellant lives in a household of 3 including herself and 2 minor children, one of whom is disabled and receives MassHealth coverage separately through the Social Security Administration which is unaffected by the MassHealth determinations. Appellant reported monthly income totaling \$3,735.32, which equates to 175.31% of the federal poverty level. Because income exceeds 133% of the federal poverty level for a household of 3, \$2,756 on the date of hearing, Appellant is no longer eligible for MassHealth Standard coverage, but is eligible to enroll in a Health Connector Plan.¹ Because income is between 150% and 300% of the federal poverty level, \$3,108 and \$6,215 respectively,² Appellant's minor child's coverage changed to Family Assistance with a \$12 monthly premium. MassHealth noted that Appellant submitted a disability supplement which was determined to be incomplete by Disability Evaluation Services (DES)/MassHealth. Appellant did not report a pregnancy or any other categorical eligibility criteria for MassHealth Standard.

Appellant testified that she has been employed for more than one year and added that household income and household size are correct. Appellant testified that she is disabled, and that she will contact DES to complete the adult disability supplement. Appellant testified that if she loses MassHealth coverage, she will not be able to see her therapist or get medications. She added that she has not paid the \$12 premium for her daughter's coverage.

¹ Effective March 2024, 133% of the federal poverty level for a household of 3 is \$2,862. 150% and 300% of the federal poverty level for a household of 3 is \$3,228 and \$6,455 respectively.

Findings of Fact

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

1. Through a notice dated December 26, 2023, MassHealth notified Appellant that her MassHealth coverage was downgraded to Health Safety Net effective December 16, 2023.
2. On December 26, 2023, a notice was issued informing Appellant that coverage for her minor child was downgraded to Family Assistance with a \$12 premium.
3. On January 3, 2024, Appellant provided updated income information to MassHealth, and on January 8, 2024, MassHealth notified Appellant that she was not eligible for MassHealth benefits and was approved for Health Safety Net.
4. Appellant is eligible to enroll in a Health Connector Plan.
5. Appellant was receiving MassHealth Standard benefits which are protected during the appeal process.
6. Appellant lives in a household of 3 including herself and 2 minor children, one of whom is disabled and receives MassHealth coverage separately through the Social Security Administration which is unaffected by the MassHealth determinations.
7. Appellant reported monthly income totaling \$3,735.32, which equates to 175.31% of the federal poverty level.
8. The following are federal poverty levels for a household of 3 on the date of hearing: 133%, \$2,756; 150%, \$3,108; and 300%, \$6,215.³
9. Appellant's minor child's coverage changed to Family Assistance with a \$12 monthly premium.
10. Appellant submitted an adult disability supplement which was determined to be incomplete by Disability Evaluation Services (DES)/MassHealth.
11. Appellant did not report a pregnancy or any other categorical eligibility criteria for MassHealth Standard.

³ See fns. 1, 2.

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.⁴ Through a notice dated December 26, 2023, MassHealth notified Appellant that her MassHealth coverage was downgraded to Health Safety Net effective December 16, 2023. On December 26, 2023, a notice was issued informing Appellant that coverage for her minor child was downgraded to Family Assistance with a \$12 premium. On January 3, 2024, Appellant provided updated income information to MassHealth, and on January 8, 2024, MassHealth notified Appellant that she was not eligible for MassHealth benefits and was approved for Health Safety Net. Appellant was receiving MassHealth Standard benefits which are protected during the appeal process. Appellant's household's eligibility is determined based on MassHealth coverage criteria.⁵ 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 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

⁴ See Eligibility Operations Memo 23-11 April 2023.

⁵ See Eligibility Operations Memo 23-18 July 2023.

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 claimed as tax dependents are correctly included in the household composition.⁶ Countable household income includes gross earned income less pretax deductions, unearned, and 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 two minor children are between one and 18 years of age, one of whom has been determined disabled by either the Social Security Administration or Disability Evaluation Services/MassHealth, and whose MassHealth benefits are unaffected by the

⁶ (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 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.

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.

MassHealth determination.⁹ Appellant reported gross earned income totaling \$3,735.32, which equates to 175.31% of the federal poverty level, and falls between 150% and 300% of the federal poverty level for a household of 3, \$3,108 and \$6,215 respectively.¹⁰ Appellant is no longer eligible for MassHealth Standard coverage because household income exceeds 133% of the federal poverty level \$2,756, she has not been determined to be disabled by Social Security or MassHealth, and did not report a pregnancy or other eligibility criteria for MassHealth Standard (130 CMR 505.002(B)-(L)). Appellant's minor child, who is between [REDACTED] and [REDACTED] years of age, is not eligible for MassHealth Standard because income exceeds 150% of the federal poverty level or \$3,108 per month (130 CMR 505.002(B)(2)); and she is not otherwise eligible for Standard or CommonHealth because she has not been determined permanently and totally disabled (130 CMR 505.004(G)).¹¹ Appellant and her minor child are not eligible for CarePlus which applies to adults between 21 and 64 years of age with income below 133% of the federal poverty level, \$2,756 (130 CMR 505.008). Appellant does not meet eligibility criteria for Family Assistance (130 CMR 505.005(A)).¹² However, Appellant's minor child is eligible for MassHealth Family Assistance

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 fn. 1. The increased 2024 Federal Poverty Guidelines do not substantively change Appellant's or her child's eligibility.

¹¹ 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.

¹² See 130 CMR 505.005 (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.

(2) Children and young adults who are 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 at or below 150% of the FPL are eligible for MassHealth Family Assistance. Children under age one who are 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 at or below 200% of the FPL are eligible for MassHealth Family Assistance. Young adults who are 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 FPL are eligible for MassHealth Family Assistance.

(3) Adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified*

because household income is between 150% and 300% of the federal poverty level, \$3,108 and \$6,215 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), directs that a \$12 premium applies (130 CMR 506.011(B)(3)).

Because the MassHealth determinations are correct, the appeal is DENIED.

Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765) or Health Safety Net to 877-910-2100. Appellant can also contact Disability Evaluation Services to inquire about the status of her adult disability supplement at 1-888-497-9890.

Order for MassHealth

None, other than rescind aid pending.

Persons Residing under Color of Law (Nonqualified PRUCOLs), whose modified adjusted gross income of the MassHealth MAGI household is at or below 300% of the FPL are eligible for MassHealth Family Assistance.

(4) HIV-positive individuals who are citizens as defined in 130 CMR 504.002: *U.S. Citizens* and qualified noncitizens as defined in 130 CMR 504.003(A)(1): *Qualified Noncitizens*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 133 and less than or equal to 200% of the FPL are eligible for MassHealth Family Assistance.

(5) Disabled adults who are qualified noncitizens barred, as defined in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as defined in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present*, 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 Disabled Adult household is at or below 100% of the FPL are eligible for MassHealth Family Assistance.

(6) Certain Emergency Aid to the Elderly, Disabled and Children (EAEDC) recipients are eligible for MassHealth Family Assistance.

(7) Persons eligible for MassHealth Family Assistance must obtain and maintain all available health insurance as described in 130 CMR 503.007: *Potential Sources of Health Care*.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Appeals Coordinator: Sylvia Tiar, Tewksbury MassHealth Enrollment Center