

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Remand	Appeal Number:	2401507
Decision Date:	03/14/2024	Hearing Date:	02/26/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Chanthy Kong



*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:	Remand	Issue:	Eligibility
Decision Date:	03/14/2024	Hearing Date:	02/26/2024
MassHealth's Rep.:	Chanthy Kong	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by 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 16, 2024, MassHealth informed the appellant that they were changing coverage for her daughter from MassHealth Standard to the Children's Medical Security Plan due to a change in circumstances. (Exhibit 1; 130 CMR 505.000; 130 CMR 506.000). The new coverage starts January 6, 2024. (Exhibit 1; 130 CMR 505.000). The appellant filed a timely appeal on January 30, 2024. (130 CMR 610.015; Exhibit 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth changed the coverage type of the appellant's daughter from MassHealth Standard to the Children's Medical Security Plan as of January 6, 2024. (130 CMR 505.000).

Issue

Whether MassHealth was correct in determining the change in coverage type for the appellant's daughter.

Summary of Evidence

On January 16, 2024, MassHealth issued a notice changing the benefits of the appellant's daughter from MassHealth Standard to the Children's Medical Security Plan as of January 6, 2024. (Testimony; Exhibit 1). The notice on appeal states that this decision is based on deeming the appellant's daughter as a member of a household size of three with income at 489.63% of the federal poverty level. The appellant's daughter is younger than 19 years of age and has not been deemed disabled. At the time of the eligibility decision made by MassHealth, this income calculation would be based on monthly countable income of \$10,145.13. [$\$2,072 \times 4.8963 = 10,145.13$]. Adding the regulatory 5% disregard of \$103.60 would calculate total monthly income of \$10,248.73 [$\$10,145.13 + 103.60 = \$10,248.73$].

At hearing, the MassHealth representative testified that the agency considered earnings from the appellant in the amount of \$945.60 each week. This resulted in a monthly gross income of \$4,097.28 [$\$945.60 \times 4.333 = \$4,097.28$]. In applying the regulatory 5% disregard, a family group of three would have countable income of \$3,993.68 [$\$4,097.28 - \$103.60 = \$3,993.68$]. This income provides a family group of three with countable income at 192.75% of the federal poverty level [$\$3,993.68 \div \$2,072 = 192.75\%$]. At one point, the MassHealth representative stated that eligibility would be different if the appellant had three children but in this case the appellant only had one child who was possibly eligible for MassHealth so only considered the one in determining eligibility. The MassHealth representative did not indicate a reason for this distinction. If the appellant's daughter was considered a family group of one, income of \$3,993.68 would place the countable income for the appellant's daughter at 328.70% of the federal poverty level [$\$3,993.68 \div \$1,215 = 328.70\%$]. The MassHealth representative did not present evidence or testimony regarding other income that the agency considered in determining eligibility.

Based on annual cost-of-living adjustments, MassHealth published new income standards on March 1, 2024. The agency makes these adjustments each year. Based on the 2024 income standards, the appellant has countable income of \$3,989.68 [$\$4,097.28 - \$107.60 = \$3,989.68$]. This countable income of \$3,989.68 for a family group of three is at 185.40% of the federal poverty level [$\$3,989.68 \div \$2,152 = 185.40\%$].

The appellant testified that she makes \$27 each hour, working 40 hours each week. This would provide the appellant with a weekly income of \$1,080 and monthly income of \$4,679.64 [$\$1,080 \times 4.333 = \$4,679.64$]. After applying a 5% disregard of \$107.60, countable income of \$4,572.04 for a family group of three is at 212.46% of the federal poverty level [$\$4,572.04 \div \$2,152 = 212.46\%$]. The appellant did not have documentation to verify this income so this decision will utilize figures presented by the agency.

The appellant testified that her daughter has been eligible for MassHealth for a number of years so did not understand the reason for a change in coverage. The appellant stated that her daughter should continue to be deemed eligible for MassHealth Standard as she is an [REDACTED] child. The appellant testified that she and her spouse have insurance through the appellant's employer. On

more than one occasion, the appellant referred to the plan offered by her employer as a “family plan”. The appellant testified that her daughter is not eligible for enrollment in this family plan.

Findings of Fact

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

1. On January 16, 2024, MassHealth issued a notice changing the benefits of the appellant’s daughter from MassHealth Standard to the Children’s Medical Security Plan as of January 6, 2024.
2. The agency based this decision on the appellant’s daughter being a member of a household size of three with income at 489.63% of the federal poverty level.
3. At the time of the eligibility decision made by MassHealth, income at 489.63% of the federal poverty level would equal total income of \$10,258.
4. The appellant’s daughter is younger than 19 years of age.
5. The appellant’s daughter has not been deemed disabled.
6. The appellant has earnings in the amount of \$945.60 each week for a gross monthly income of \$4,097.28 [$\$945.60 \times 4.333 = \$4,097.28$].
7. In applying the regulatory 5% disregard, a family group of three has countable income of \$3,993.68 [$\$4,097.28 - \$103.60 = \$3,993.68$].
8. Income in the amount of \$3,993 places a family group of three at 192.75% of the federal poverty level [$\$3,993.68 \div \$2,072 = 192.75\%$].
9. On March 1, 2024, MassHealth adjusted eligibility figures to account for annual cost-of-living adjustments.
10. These changes result in a calculation of countable income in the amount of \$3,989.68 [$\$4,097.28 - \$107.60 = \$3,989.68$].
11. Income in the amount of \$3,989.68 places a family group of three at 185.40% of the federal poverty level [$\$3,989.68 \div \$2,152 = 185.40\%$].
12. The appellant and her spouse are enrolled in insurance through the appellant’s employer.

Analysis and Conclusions of Law

Children and young adults may establish eligibility for MassHealth Standard coverage subject to the requirements described in 130 CMR 505.002(B). A child one through 18 years of age 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). (130 CMR 505.002(B)(2)(a)).

MassHealth uses the MassHealth MAGI household composition rules to determine member eligibility for MassHealth Standard as described in 130 CMR 505.002(B)). The coverage described at 130 CMR 505.002(B) is for children and young adults. (130 CMR 505.002(B)).

The MassHealth MAGI household composition rules state:

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. (130 CMR 506.002(B)(2)).

The appellant's daughter does not meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1., 2., or 3. Therefore, her eligibility is based on being part of the appellant's household as the parties did not dispute that the daughter is claimed by the appellant as a tax dependent. As income reported by both parties for a family group of three exceeds 150% of the federal poverty level, the appellant's daughter is not eligible for MassHealth Standard. That eligibility decision was correct.

In addition to MassHealth Standard, a child younger than 19 years of age may be eligible for other MassHealth Coverage types. A child younger than 19 years of age is eligible for MassHealth Family Assistance if they meet the following criteria:

- (a) the child is younger than 19 years old;

- (b) the child's 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);
- (c) the child is ineligible for MassHealth Standard or CommonHealth;
- (d) the child is a citizen as defined in 130 CMR 504.002: U.S. Citizens or a lawfully present immigrant as defined in 130 CMR 504.003(A), or a nonqualified PRUCOL, as defined in 130 CMR 504.003(C): Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs);
- (e) the child complies with 130 CMR 505.005(B)(2) and meets one of the following criteria:
 - 1. the child is uninsured; or
 - 2. the child has health insurance that meets the criteria at 130 CMR 506.012: Premium Assistance Payments. (130 CMR 505.005(B)(1)).

Pursuant to 130 CMR 505.005(B)(2), MassHealth may perform an investigation to determine if individuals potentially eligible for MassHealth Family Assistance

- (a) have health insurance that MassHealth can help pay for; or
- (b) have access to employer-sponsored insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

1. Investigations for Individuals Who Are Enrolled in Health Insurance.

- a. 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 Family Assistance Premium Assistance Payments as described at 130 CMR 450.105(G)(1): Premium Assistance and 130 CMR 506.012: Premium Assistance Payments.
- b. 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 continues to be eligible for MassHealth Family Assistance.

2. Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance (ESI).

- a. If MassHealth determines the individual has access to employer-sponsored health insurance, 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 that meets the criteria described in 130 CMR 506.012: Premium Assistance Payments. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Family Assistance Premium Assistance Payments as described in 130 CMR 450.105(G)(1): Premium Assistance and 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.

- b. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth Family Assistance.

At hearing, the appellant testified that she and her husband are enrolled in employer-sponsored insurance in which her daughter is not enrolled. The appellant referred to such insurance as a “family plan”. In order to be deemed eligible for MassHealth Family Assistance, the appellant must comply with the requirements of having the agency perform an investigation to determine whether the child is uninsured or has health insurance that meets the criteria at 130 CMR 506.012: Premium Assistance Payments. (130 CMR 505.005(B)(1)).

This appeal is remanded for MassHealth to determine whether the appellant’s daughter is eligible for MassHealth Family Assistance as testimony and evidence presented at hearing indicate that she meets all of the eligibility criteria other than having the agency perform an investigation as to whether she has access to employer-sponsored insurance. The findings of such an investigation are beyond the scope of this appeal which addressed income eligibility for MassHealth Standard and a change in coverage to the Children’s Medical Security Plan.

Pursuant to 130 CMR 522.004(B), the Children’s Medical Security Plan (CMSP) provides coverage to uninsured children younger than 19 years old who do not qualify for any other MassHealth coverage type, other than MassHealth Limited, and who do not have physician and hospital health-care coverage. The appellant appears to be eligible for a MassHealth coverage type so would not be eligible for CMSP.

As noted above, the appeal is being remanded for MassHealth to continue to determine eligibility as the appellant meets the criteria to allow the agency to continue to make a decision regarding her daughter’s eligibility for Family Assistance. It is unclear why MassHealth presented income information at hearing that was much lower than that considered in the calculation listed in the notice on appeal. In determining eligibility for Family Assistance, the agency may look at other eligibility factors as well.

The appellant is also being reminded that applicants and members must cooperate with MassHealth in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining available health insurance. (130 CMR 501.010A)). Additionally, applicants and members must report changes that may affect eligibility to MassHealth, within ten days or as soon as possible. (130 CMR 501.010(B)). Such changes include, but are not limited to, income, the availability of health insurance, and third-party liability. (130 CMR 501.010(B)). If the information reported by the representative at hearing was not accurate or any changes in income or availability of health insurance occur during the ongoing eligibility process, the appellant must report these changes or corrections to the agency. (130 CMR 501.010(B)).

Order for MassHealth

Release the appellant's aid pending and continue to make an eligibility determination regarding possible eligibility for MassHealth Family Assistance.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290