

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401596
Decision Date:	4/1/2024	Hearing Date:	3/6/2024
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Patrick George, Tewksbury

Interpreter:
Spanish



*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:	4/1/2024	Hearing Date:	3/6/2024
MassHealth's Rep.:	Patrick George	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury (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

By notice dated December 29, 2023, MassHealth downgraded Appellant's child's coverage from MassHealth Standard to Children's Medical Security Plan, with Standard ending after January 31, 2024. Exhibit 1. Appellant filed this timely appeal on January 31, 2024 and was eligible to retain the previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded Appellant's child's coverage from MassHealth Standard to Children's Medical Security Plan.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's child did not qualify for MassHealth Standard due to income.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of three with her minor child, the applicant. On December 29, 2023, MassHealth notified Appellant that her child was not eligible for MassHealth Standard, and that the coverage would end after January 31, 2024. Appellant's child was eligible for Children's Medical Security Plan (CMSP) beginning December 19, 2024. Exhibit 1. The MassHealth representative testified that the income on file for the family included \$1,200 biweekly for Appellant and \$2,500 biweekly for the other parent in the household. Based on this household income, Appellant's household is at 382.03% of the federal poverty level (FPL), which exceeds the limit for MassHealth Standard for a child under the age of [REDACTED]. Appellant's child is eligible for CMSP and Health Connector plans.

Appellant appeared by phone and testified as follows. Appellant testified that the income was correct. Appellant is concerned because her child's specialists do not take CMSP. Appellant's child suffers from chronic ear infections and illness. Appellant's child was referred to an ophthalmologist. Appellant understood that she can enroll in the Health Connector, which may provide more options for specialists for her child.

Findings of Fact

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

1. Appellant is in a household of 3 with her minor child, the applicant.
2. On December 29, 2023, MassHealth notified Appellant that her child was not eligible for MassHealth Standard, and that the coverage would end after January 31, 2024. Appellant's child was eligible for Children's Medical Security Plan (CMSP) beginning December 19, 2024. Exhibit 1.
3. Appellant filed this timely appeal on January 31, 2024 and was eligible to retain the previous benefit level pending the outcome of the appeal. Exhibit 2.
4. The household income consists of \$1,200 biweekly for Appellant and \$2,500 biweekly for the other parent.
5. In 2023, the monthly FPL for a household of three was \$2,072 and yearly FPL was \$24,864; 150% of the FPL was \$3,108 monthly and \$37,296 yearly.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain 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*. The MassHealth coverage types are:

- (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 – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(A) Earned Income.

- (1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or

allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
 - (2) reservist/performance artist/fee-based government official expenses;
 - (3) health savings account;
 - (4) moving expenses, for the amount and populations allowed under federal law;
 - (5) one-half self-employment tax;
 - (6) self-employment retirement account;
 - (7) penalty on early withdrawal of savings;
 - (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
 - (9) individual retirement account (IRA);
 - (10) student loan interest;
 - (11) scholarships, awards, or fellowships used solely for educational purposes;
- and

(12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law.

To be eligible for MassHealth Standard as a child, Appellant's monthly income would have to be less than or equal to 150% of the FPL. 130 CMR 505.002(B)(2)(a). The undisputed evidence in the record demonstrates that the gross household income is \$96,200 yearly, which exceeds the 150% limit of \$37,296 for a household of three. Accordingly, Appellant's household income is too high to be eligible for MassHealth Standard and this appeal is denied.

Appellant's child is eligible for a Health Connector plan. Additionally, if Appellant's child has medical conditions that would qualify for disability, Appellant could apply for a disability determination for the child, which would determine Appellant's child for CommonHealth eligibility.

Order for MassHealth

Remove 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

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