

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401719
Decision Date:	4/9/2024	Hearing Date:	3/7/2024
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Sherrienne Paiva, Taunton

Interpreter:

N/A



*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:	4/9/2024	Hearing Date:	3/7/2024
MassHealth's Rep.:	Sherrienne Paiva	Appellant's Rep.:	
Hearing Location:	Remote (Tel)	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 January 16, 2024, MassHealth determined that the Appellant's does not qualify for MassHealth benefits because MassHealth calculated that the Appellant's income was too high. (Exhibit 1). The Appellant filed this appeal in a timely manner on, February 1, 2024. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the Appellant is not eligible for MassHealth because the Appellant 's income is higher than MassHealth Regulations allow for MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over income to qualify for MassHealth benefits.

Summary of Evidence

MassHealth testified that the Appellant is an adult under the age 65, who lives in a household of three. (Testimony) There was no disability attributed to the Appellant. (Testimony) MassHealth testified that the Appellant's income totaled \$4,590.05 gross per month, exceeding the limit for MassHealth Standard¹. (Testimony) MassHealth testified that the Appellant's gross income was 216.56% of the Federal Poverty Level (FPL) for 2023 and to qualify for MassHealth Standard, the Appellant's income cannot exceed 133% of the FPL. (Testimony, Exhibit 1, 130 CMR 505.001) MassHealth provided Notice to the Appellant that based on income and the Federal Poverty Level (FPL), the Appellant was eligible for a plan through the Health Connector. (Exhibit 1)

The Appellant testified that the income amount was accurate, but the Appellant could not afford to pay for health insurance. (Testimony). The Appellant testified that with her health issues, she goes to the hospital often. (Testimony). The Appellant stated that health insurance is too expensive. (Testimony). The Appellant highlighted the expenses she has, including rent, food, and others. (Testimony) The Appellant highlighted that after taxes and deductions, her paycheck does not cover her expenses, and she has to choose which bills to pay. (Testimony) The Appellant explains that she prioritizes rent for her family and has difficulty covering the cost of all of the household expenses. (Testimony) The Appellant stated she is the sole provider for her family. (Testimony) The Appellant stated that the Appellant is unable to afford a Health Connector plan. (Testimony)

Findings of Fact

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

1. The Appellant is an adult, under the age of 65, who has no disability attributed, and lives in a household of three. (Testimony).
2. The Appellant has a gross monthly income of \$4,590.05 (Testimony)
3. For 2023, 133% of the Federal Poverty Level (FPL) is \$2,756.00 a month for a household of three. (2023 MassHealth Income Standards and Federal Poverty Guidelines)².
4. For 2024, 133% of the Federal Poverty Level (FPL) is \$2,862.00 a month for a household of

¹ MassHealth testified that the Appellant's household consists of her and her two children. The minor child was deemed eligible for MassHealth Family Assistance. The other child is over 18. This Appeal is for the named Appellant, only. The Appellant indicated that the Appellant's adult child had filed a separate appeal.

² For 2023, 133% of the FPL for a household of 3 is \$2,756/month or \$33,072/year.

three. (2024 MassHealth Income Standards and Federal Poverty Guidelines)³

Analysis and Conclusions of Law

The Appellant challenges MassHealth's determination that the Appellant's income is too high for MassHealth benefits. (Exhibit 1, Exhibit 2) MassHealth Regulations at 505.001 describe MassHealth coverage types:

505.001: Introduction

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 old 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.

MassHealth utilizes countable household income, subtracting specific enumerated

³ For 2024, 133% of the FPL for a household of 3 is \$2,862/month or \$34,344/year.

deductions in calculating income attributed to an applicant as codified within 130 CMR 506.003:

506.003: Countable Household Income

Countable household income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B), less deductions described in 130 CMR 506.003(D).

(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.

MassHealth's calculus for determining financial eligibility is codified within the Regulations at 130 CMR 506.007:

506.007: Calculation of Financial Eligibility

The rules in 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described in 130 CMR 506.002 with the applicable income standard for the specific coverage type.

- (1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is

applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(M).

(b) Countable income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) less deductions described in 130 CMR 506.003(D).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types.

The Appellant is an adult under the age of 65, who has no disability attributed, who is a parent and who resides in a household of three. The applicable MassHealth benefit program for an adult, under the age of 65, who is not disabled, who is a parent is MassHealth Standard. MassHealth Standard's requirement for eligibility is codified within the Regulations at 130 CMR 505.002:

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).

Additionally, 130 CMR 505.002(C) delineates the eligibility requirements for parents and caretaker relatives:

505.002: MassHealth Standard

(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).

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

In order for the Appellant to be deemed eligible for MassHealth Standard, the Appellant's modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 133% of the Federal Poverty Level (FPL). The Appellant lives in a household of three and has a gross monthly income of \$4,590.05. (Testimony)

Pursuant to 130 CMR 506.007(A)(3), 5 percentage points of the current FPL is deducted to determine countable income. For 2023 for a household of three, 5 percentage points of the current FPL equals \$137.80. Accordingly, the Appellant's countable income is \$4,552.25.

Effective March 1, 2024, MassHealth utilizes the 2024 MassHealth Income Standards and Federal Poverty Guidelines. Pursuant to 130 CMR 506.007(A)(3), 5 percentage points of the current FPL is deducted to determine countable income. For 2024 for a household of three, 5 percentage points of the current FPL equals \$143.10. In accordance with the 2024 MassHealth Income Standards and Federal Poverty Guidelines, the Appellant's countable income for 2024 is \$4,446.95.

The 2023 income limit for MassHealth Standard is 133% of the Federal Poverty Level, or \$2,756.00 a month for a household of three. The Appellant's countable income exceeds this amount and therefore the Appellant is not financially eligible for MassHealth Standard. The 2024 income limit for MassHealth Standard is 133% of the Federal Poverty Level, or \$2,862.00 a month for a household of three. The Appellant's countable income exceeds this amount and therefore the Appellant is not financially eligible for MassHealth Standard. The Appellant has not met the burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid. Accordingly, this appeal is DENIED.

Order for MassHealth

None.

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.

Patrick M. Grogan
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616