

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2402403
<b>Decision Date:</b>	05/28/2024	<b>Hearing Date:</b>	03/22/2024
<b>Hearing Officer:</b>	Scott Bernard	<b>Record Open to:</b>	04/05/2024

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Sarah Sardella (Quincy MEC) *via telephone*



*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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Under 65/Eligibility/Income
<b>Decision Date:</b>	05/28/2024	<b>Hearing Date:</b>	03/22/2024
<b>MassHealth's Rep.:</b>	Sarah Sardella	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 February 5, 2024, MassHealth terminated the appellant from MassHealth Standard because MassHealth determined that her income exceeded the limit for MassHealth Standard. (See 130 CMR 506.007(B); 502.003; and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on February 14, 2024 and received aid pending appeal. (See 130 CMR 610.015(B) and Ex. 2). Termination of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the conclusion of the hearing, the record was left open so that the appellant could submit updated income information. (Ex. 6; Ex. 7).

### Action Taken by MassHealth

MassHealth determined that the appellant was not eligible for a MassHealth benefit because her income was too high.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.007, in determining that the appellant was not eligible for MassHealth because her income was too high.

## Summary of Evidence

An eligibility worker from the Quincy MassHealth Enrollment Center represented MassHealth and the appellant represented herself. Both parties attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant, an individual under 65 years of age, resides in a three-person household. (Testimony; Ex. 2). She claims her [REDACTED] son and her [REDACTED] nephew as tax dependents. (Testimony). The appellant also lives with two of her other children, but they are tax filers and not part of her household. (Testimony). Until February 5, 2024, the appellant received MassHealth Standard as the parent of a child under 19 living in her household and her last reported income in December 2023 placed her at 121% of the FPL. (Testimony; Ex. 2).

On February 5, 2024, the appellant reported her gross monthly earned income (GMI) to be \$5,358.48. (Testimony; Ex. 1). The household's income was equal to 244% of the federal poverty level (FPL). (Testimony; Ex. 1). The income limit for MassHealth Standard for parents of children under age 19 is 133% of the FPL, presently \$2,862 per month. (Testimony). The appellant qualifies for a ConnectorCare Plan Type 3A and Temporary Health Safety Net Partial. (Testimony; Ex. 1; Ex. 2).

The MassHealth representative testified that she contacted the appellant a day prior to the hearing. (Testimony). During that conversation the appellant stated that her income was no longer correct. (Testimony). The appellant explained that as of February 26, she no longer works for one of her two employers. (Testimony). Her remaining employment is seasonal from September to the second week of June. (Testimony). The appellant reported that her monthly income was now \$3,163.78. (Testimony). The MassHealth representative stated that based on the appellant's self-reported monthly seasonal income, the appellant's GMI would position her at 142.04% of the FPL. (Testimony). The MassHealth representative said that the appellant should submit updated paystubs to show her change in income. (Testimony).

The appellant confirmed the MassHealth representative's testimony concerning the fact that as of February 26, 2024 she no longer works for one of her employers. (Testimony). The appellant stated that her prospective annual income was going to only be between \$25,089 and \$26,000. (Testimony). The appellant asked for more time to submit updated paystubs to the MassHealth representative. (Testimony).

At the conclusion of the hearing, the record was left open until April 5, 2024 to allow the appellant to submit updated paystubs and for the MassHealth representative to respond. (Ex. 6). At the conclusion of the record open period, the MassHealth representative confirmed by email that the appellant had submitted five paystubs which indicated that she earns \$3,672 per month for the months of September through June. (Ex. 7). Based on this, MassHealth concluded that the appellant's income was now equivalent to 137.22 % of the FPL. (Id.).

## Findings of Fact

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

1. The appellant is an individual under 65 years of age. (Testimony; Ex. 2).
2. The appellant lives in a three-person household. (Testimony).
3. The appellant claims her [REDACTED] son and her [REDACTED] nephew as tax dependents. (Testimony).
4. Until February 5, 2024, the appellant received MassHealth Standard because she is the parent of a child under 19 who lives in her household and her reported income at that time placed her at 121% of the FPL. (Testimony; Ex. 2).
5. On February 5, 2024, the appellant reported her gross monthly earned income (GMI) to be \$5,358.48. (Testimony; Ex. 1).
6. The appellant is no longer working at one of the listed jobs.
7. To qualify for MassHealth Standard, her income cannot exceed 133% of the FPL, presently \$2,862 per month. (Testimony).
8. On February 5, 2024, MassHealth informed the appellant that starting on January 20, 2024 she was eligible for HSN but did not qualify for a MassHealth benefit because her income was too high. (Ex. 1; Testimony).
9. Currently, she qualifies for a ConnectorCare Plan Type 3A and Temporary HSN Partial. (Testimony; Ex. 1; Ex. 2).
10. The record was left open to allow the appellant to submit updated paystubs. (Testimony; Ex. 6).
11. The appellant submitted five newer paystubs indicating that she earned \$3,672 per month for the months of September through June. (Ex. 7).
12. Based on this, MassHealth concluded that the appellant's income was now equivalent to 137.22% of the FPL. (Ex. 7).

## Analysis and Conclusions of Law

Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. (130 CMR 506.003(A)(1)). Earned income may include wages, salaries, tips, commissions, and bonuses. (Id.). Seasonal income or other reasonably predictable

future income is taxable income derived from an income source that may fluctuate during the year. (130 CMR 506.003(4)). Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income. (Id.).

Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules is determined by comparing the sum of all countable income less deductions for the individual's household with the applicable income standard for the specific coverage type. (130 CMR 506.006(A)). MassHealth will construct a household 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. (130 CMR 506.007(A)(1)).

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 household. The income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007(A)(2)). A household's countable income is the sum of the gross 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. (130 CMR 506.007(A)(2)(a)). Countable income includes earned income (described above) and unearned income (not applicable in this appeal) less deductions<sup>1</sup>. (130 CMR 506.007(A)(2)(b)). In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. ((130 CMR 506.007(A)(2)(c)). Once MassHealth determines a household's countable income, it then determines what percentage of the federal poverty level that income is and subtracts five percentage points from that number. (130 CMR 506.007(A)(3)). This adjusted income is then compared to the federal poverty level to determine the individual's eligibility. (Id.).

The income limit for MassHealth Standard for parents of children under 19 is 133% of the FPL. (See 130 CMR 505.002).

The appellant's current verified income is \$3,672 a month for the 10 months she works. Her average monthly income is therefore \$3,060.00 ( $\$3,672 \times 10 = \$36,720/12 = \$3,060.00$ ). MassHealth deducts 5 percentage points, \$107.60 for a family of three, in determining countable income. Accordingly, the appellant's countable monthly income is \$2,952.40, or 137% FPL for a 3 person household.

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<sup>1</sup> Neither the MassHealth representative nor the appellant stated that any deductions were applicable here but they are described in 130 CMR 506.003(D) and are as follows: student loan interest; educator expenses; reservist/performance artist/fee-based government official expenses; health savings account; moving expenses, for the amount and populations allowed under federal law; one-half self-employment tax; self-employment retirement account; penalty on early withdrawal of savings; alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018 (those finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible); individual retirement account (IRA); scholarships, awards, or fellowships used solely for educational purposes; student loan interest; and 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.

### Extended Eligibility...

(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).

(130 CMR 505.002(L)(3), (4)).

The appellant continues to have a child under age 19 living with her, she continues to be employed, there is no evidence that she has access to health insurance at no cost to her, she is a citizen or qualified noncitizen, and her earnings raised her MAGI to above 133% FPL, therefore she is eligible for extended MassHealth eligibility for the 12 calendar month period beginning February, 2024. The appeal is approved insofar as the appellant continues to be eligible for extended MassHealth through to the next review in February, 2024.

## Order for MassHealth

Rescind aid pending and reopen the appellant on Extended MassHealth Standard.

## 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171