

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2402556
Decision Date:	4/10/2024	Hearing Date:	03/21/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jada Newsome

Interpreter:



*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:	Approved	Issue:	Eligibility
Decision Date:	4/10/2024	Hearing Date:	03/21/2024
MassHealth's Rep.:	Jada Newsome	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared Using a Video Conferencing Service	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 27, 2024, MassHealth determined that the appellant was not eligible for MassHealth as of January 17, 2024. (130 CMR 505.000; Exhibit 1A). Through a notice dated February 7, 2024, MassHealth determined that the appellant was not eligible for MassHealth benefits starting on January 28, 2024. (130 CMR 505.000; Exhibit 1B). The appellant filed a timely appeal on February 20, 2024. (130 CMR 610.015). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant was not eligible for MassHealth benefits starting on January 17, 2024. (130 CMR 505.002).

Issue

Whether MassHealth was correct in determining the appellant's eligibility.

Summary of Evidence

From October 2023 through February 2024, MassHealth received several information updates from the appellant. On October 22, 2023, MassHealth changed the appellant's benefits from MassHealth Standard to the Health Safety Net. The notice states that the Health Safety Net coverage starts on October 12, 2023 and the appellant will not receive MassHealth Standard after December 31, 2023. This decision was based on the agency determining that the appellant's family group of 4 had income at 165.06% of the Federal Poverty Level. (Testimony; Exhibit 5).

On January 27, 2024, the agency received an information update from the appellant's household and issued a notice denying coverage as the agency determined that the appellant's household of 4 had income at 165.06% of the Federal Poverty Level. This calculation would come from gross monthly income in the amount of \$4,251.50. After applying a 5% disregard of \$125 to a gross monthly income of \$4,251.50, a household of 4 would have countable income of \$4,126.50 [$\$2,500 \times 1.6506 = \$4,126.50$].¹

On February 7, 2024, MassHealth received an update from the appellant's household regarding a change in income. The MassHealth representative testified that the agency received a report of bi-weekly income in the amount of \$1,637. The MassHealth representative testified that MassHealth multiplied this bi-weekly income by 2.167 and calculated a monthly income of approximately \$3,548. In applying the regulatory 5% disregard of \$125, countable income of \$3,423 placed the appellant's household of 4 at 136.9% of the Federal Poverty Level at the time of the February 2024 eligibility decision [$\$3,423 \div \$2,500 = 136.9\%$]. In March 2024, MassHealth performed an annual cost of living adjustment to their income standards, applying a new 5% disregard of \$130, this adjustment would consider a household of 4 as having countable income of \$3,418 and place them at 131.4% of the Federal Poverty Level [$\$3,418 \div \$2,600 = 131.4\%$].

The appellant did not dispute the income information presented by MassHealth. The appellant gave birth to a child in February 2024. The appellant reported the pregnancy to a MassHealth representative on March 12, 2024. The MassHealth representative at hearing testified that this change resulted in determining the appellant eligible as a member of a household of 5 with income at 111.37% of the Federal Poverty Level. This would include countable income in the amount of \$3,396 [$\$3,049 \times 1.1137 = \$3,396$] or gross monthly income of \$3,548 after adding the 5% disregard of \$152.45. As a result of this change, the agency determined the appellant eligible for MassHealth Standard as of March 2, 2024. The MassHealth representative testified that the agency could only provide coverage 10 days prior to the date of the eligibility decision issued on March 12, 2024.

The MassHealth representative testified that the agency could not consider the appellant's pregnancy in determining eligibility as she had already given birth to the child when she reported

¹ These figures are based upon the agency's income standards and federal poverty guidelines.

the pregnancy to MassHealth on March 12, 2024. It was noted at hearing that the agency could possibly provide coverage up to 3 months prior to reporting a pregnancy if the individual is otherwise eligible. The MassHealth representative testified that this type of retroactive coverage only applies to new applicants.

Findings of Fact

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

1. On October 22, 2023, MassHealth changed the appellant's benefits from MassHealth Standard to the Health Safety Net.
2. The Health Safety Net coverage started on October 12, 2023.
3. The appellant's MassHealth Standard coverage ended on December 31, 2023.
4. The agency determined that the appellant's household of 4 had income at 165.06% of the Federal Poverty Level.
5. On January 27, 2024, MassHealth received an information update from the appellant's household and determined that the appellant was not eligible for MassHealth Standard as the household of 4 had income at 165.06% of the Federal Poverty Level.
6. An income standard of 165.06% of the Federal Poverty Level would be based upon countable income in the amount of \$4,126.50 or gross income of \$4,251.50.
7. On February 7, 2024, MassHealth received an update from the appellant's household regarding a change in income.
8. The appellant's household reported bi-weekly income in the amount of \$1,637 resulting in monthly gross income of \$3,548.
9. MassHealth applied a regulatory 5% disregard and determined that countable income of \$3,423 placed the appellant's household of 4 at 136.9% of the Federal Poverty Level.
10. The appellant gave birth to a child in February 2024.
11. The appellant reported the pregnancy to a MassHealth representative on March 12, 2024.
12. MassHealth determined the appellant eligible for MassHealth Standard as of March 2,

2024 as a member of a household of 5 with income at 111.37% of the Federal Poverty Level.

Analysis and Conclusions of Law

MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits for the individual or family. (130 CMR 501.003(A)). MassHealth offers several coverage types: Standard, CommonHealth, CarePlus, Family Assistance, Small Business Employee Premium Assistance and Limited. (130 CMR 501.003(B)). The coverage type for which an individual is eligible is based on their income and circumstances. (130 CMR 501.003(B)).

At the beginning of the COVID-19 public health emergency (PHE), the federal government issued continuous coverage requirements for Medicaid. (MassHealth Eligibility Operations Memo 23-13, April 2023). Since March 2020, MassHealth put protections in place so that individuals receiving Medicaid would generally not lose their coverage unless they voluntarily withdrew, moved out of state, or passed away. (MassHealth Eligibility Operations Memo 23-13, April 2023). These continuous coverage requirements ended April 1, 2023 and the agency began to redetermine eligibility by sending out renewal paperwork to all members. (MassHealth Eligibility Operations Memo 23-13, April 2023). Whenever possible, MassHealth automatically processes a member's renewal by matching their information against state and federal data. (MassHealth Eligibility Operations Memo 23-13, April 2023).

Pursuant to 130 CMR 502.007(A), MassHealth reviews eligibility:

- (1) by information matching with other agencies, health insurance carriers, and information sources;
- (2) through a written update of the member's circumstances on a prescribed form;
- (3) through an update of the member's circumstances in person, by telephone or on the MAHealthConnector.org account; or
- (4) based on information in the member's case file. (130 CMR 502.007(A)).

Households whose continued eligibility cannot be determined based on electronic data matches with federal and state agencies and households whose eligibility would change to a less comprehensive benefit for at least one member of the household as a result of the data matches will be required to complete a prepopulated renewal application. (130 CMR 502.007(C)(2)). MassHealth will notify the head of the household of the need to complete the renewal application. (130 CMR 502.007(C)(2)(a)). It appears that MassHealth did a new eligibility determination in October 2023 resulting in coverage ending on December 1, 2023. This decision is beyond the scope of this appeal as an individual has 60 days after receiving written notice of an agency action to file an appeal. (130 CMR 610.015(B)(1)). The appellant filed this appeal in February 2024 and

did not deny receipt of the notice issued in October 2023. However, this eligibility determination is being noted in this hearing decision as context for the overall eligibility history.

Pursuant to 130 CMR 501.010(B), an applicant or member must report to MassHealth, within 10 days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, the availability of health insurance, and third-party liability. (130 CMR 501.010(B)). As noted at hearing, the appellant's household reported changes in income over the course of several months. The appellant was pregnant at the time of each reported change but did not report the pregnancy to MassHealth.

A person who is pregnant is eligible for MassHealth Standard if the Modified Adjusted Gross Income (MAGI) of the household is less than or equal to 200% of the federal poverty level (FPL). (130 CMR 505.002(D)). At the time that the appellant's household reported changes to MassHealth, the appellant was pregnant and the income of the household was less than 200% of the FPL. Therefore, the appellant would have been determined eligible for MassHealth Standard at the time of the decisions made in January 2024 and February 2024 if they reported the pregnancy to the agency. While the agency was correct at the time of the eligibility decisions, as they did not have information about the pregnancy, during the course of the fair hearing process the appellant provided information for the agency to utilize in correcting these eligibility decisions.

The regulations governing the fair hearing process state that the effective date of any adjustments to a member's eligibility is the date on which all eligibility conditions are met, regardless of when the supporting evidence was submitted. (130 CMR 610.071(A)(2)). As the appellant presented supporting evidence about the pregnancy during the course of the appeal, the effective date of any adjustments to her eligibility as a pregnant individual would be reflected in a decision issued as of the date of the first notice on appeal, January 27, 2024.

Pursuant to 130 CMR 502.006(B)(1)(a), existing members who are pregnant or younger than 19 years of age who receive an eligibility determination resulting in a more comprehensive benefit could have a start date retroactive to the first day of the third calendar month prior to:

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file.

If covered medical services were not received during such period, or the individual would not have been eligible at the time services were provided, the start date of the new coverage is ten days prior to:

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file. (130 CMR 502.006(B)(1)(b))

Given the eligibility history presented by the MassHealth representative, the appellant was eligible for MassHealth Standard at the time the coverage ended on December 1, 2023 as the income of the family group was under 200% of the Federal Poverty Level at that time and the agency made eligibility determinations due to reported changes where the agency did not request verification. Therefore, there should be no gap in coverage for the appellant if she received covered medical services during the three-month period prior to January 27, 2024. The statement by the MassHealth representative that eligibility for coverage retroactive to the first day of the third calendar month is only applicable to new members is not correct. The regulations clearly state that this type of coverage is applicable to existing members who become eligible for a more comprehensive benefit. (130 CMR 502.006(B)(1)). A change in eligibility from the Health Safety Net to MassHealth Standard is a move to a more comprehensive benefit. If the appellant incurred medical expenses three months prior to the decision issued on January 27, 2024, she should have providers resubmit them to the agency to see if they qualify as covered services.

The decisions made by MassHealth were not correct.

This appeal is approved.

It was noted during the hearing that the MassHealth representative could only provide coverage 10 days prior to the date of the receipt of information from the appellant in March 2024, despite the information being submitted during the course of an appeal. While the rules regarding the effective date of adjustments fall under the regulations regarding the fair hearing process, the agency issued a policy regarding hearing resolution in which the agency would work with members to resolve matters at issue during an appeal. (Eligibility Operations Memo 23-27).

The pre-hearing resolution process went into effect on October 1, 2023 to provide members and applicants the opportunity to resolve the appeal without a formal hearing. Such action would likely incorporate the whole appeal, including the consideration of information provided by a member to see if it is sufficient to resolve the matter at issue. In this case, during the appeal, the appellant provided information sufficient to resolve the matter at issue. However, the subsequent agency action was to approve coverage as if the information was presented outside of the hearing process. This action does not appear to comply with the intent of this resolution process. While this is not the basis of this decision, it is something for the agency to consider in implementing this process.

Order for MassHealth

Rescind the notices dated January 17, 2024, February 7, 2024 and March 12, 2024 and determine the appellant eligible for MassHealth Standard as a pregnant person as of January 7, 2024 with the possibility of retroactive coverage to the first day of the third calendar month prior to January 17, 2024 .

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