

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied-in-part; Dismissed-in-part	<b>Appeal Number:</b>	2402710
<b>Decision Date:</b>	04/11/2024	<b>Hearing Date:</b>	03/11/2024
<b>Hearing Officer:</b>	Casey Groff, Esq.	<b>Record Closed:</b>	03/26/2024

**Appearance for Appellant:**  
*Pro se*

**Appearance for MassHealth:**  
Lorenzo Paulino De La Cruz, Quincy MEC



*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>	Denied-in-part; Dismissed-in-part	<b>Issue:</b>	Eligibility; Under 65; Income; Disability
<b>Decision Date:</b>	04/11/2024	<b>Hearing Date:</b>	03/11/2024
<b>MassHealth's Rep.:</b>	Lorenzo Paulino De La Cruz	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (Remote)	<b>Aid Pending:</b>	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 2/22/24, MassHealth informed Appellant that she did not qualify for MassHealth benefits because her income exceeded program limits. See Exh. 1. Appellant filed this appeal in a timely manner on 2/22/24. See 130 CMR 610.015(B). Denial of assistance is valid grounds for appeal. See 130 CMR 610.032. A hearing was conducted on 3/11/24. See Exh. 3. The record was left open until 3/26/24 for consideration of additional evidence. See Exhs. 6-7.

### Action Taken by MassHealth

MassHealth determined that Appellant was ineligible for benefits because her income exceeded the program limit.

### Issue

The appeal issue is whether MassHealth was correct in determining that Appellant did not qualify for benefits because her income exceeded the program limit.

## Summary of Evidence

A MassHealth eligibility representative testified at the hearing and provided the following background information: Appellant is between the ages of 21 and 65. In 2009, she was enrolled in MassHealth Standard. See Exh. 4. Initially Social Security was managing her MassHealth benefit; however, her case was subsequently transferred to MassHealth's case management system, "HIX." On 10/30/23, MassHealth sent Appellant a letter informing her that she needed to complete and submit a renewal by 12/14/23. MassHealth did not receive the renewal by the deadline. On 2/2/24, MassHealth notified Appellant that her benefit would end on 2/16/24 for failure to complete the renewal.

On 2/22/24, Appellant completed her MassHealth renewal. Through this process, Appellant provided information showing that she is in a household size of two (2), consisting of herself and her husband.<sup>1</sup> Appellant provided verification that her husband receives gross weekly income of \$1,295, amounting to a total monthly income of \$5,611.24. As a married individual, the spouse's income is applied to Appellant. MassHealth did not have any record showing that Appellant had a verified disability. To be eligible for MassHealth Standard, the individual's household income must be at or below 133% of the FPL. The 2024 income figure for a household size of two at 133% of the FPL is \$2,266 per-month or \$27,192 per-year. MassHealth sent a notice to Appellant's address, informing her that she did not qualify for MassHealth benefits due to income. See Exh. 1. The notice also indicated she needed to complete a disability supplement to verify disability. All notices were sent to Appellant's same address.

Through a pre-hearing conversation, Appellant informed the MassHealth representative that she had already completed and sent MassHealth a DES supplement. MassHealth's records did not show that DES had rendered a disability determination as of the hearing date. If and when it received a disability determination, MassHealth would proceed to determine Appellant's eligibility for CommonHealth.

Appellant appeared at the hearing and testified that she has received MassHealth based on her Social Security disability for over 14 years. Initially, she received Social Security income (SSI). After she got married, she was no longer eligible to receive SSI, but Social Security assured her that her MassHealth benefits would continue based on her disability. Appellant has received MassHealth coverage for years despite not receiving SSI.

Appellant testified that she has received PCA services for over 9 years. Appellant was unaware her MassHealth benefit ended, until she attempted to file paystubs for her PCA on 2/17/24. At that time, her PCM agency told her they could not process the payment because she no longer had MassHealth. She called MassHealth in a panic and learned that her benefit ended for failure

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<sup>1</sup> MassHealth testified that at the time of the renewal, two additional individuals, who were previously in Appellant's case, were removed because they were over 19 years old, and neither were claimed as a tax dependent.

to complete a renewal. Appellant testified that she never received the 10/30/23 renewal notice or the 2/2/24 termination notice. Appellant confirmed that the address on both notices was correct.

Appellant did not dispute her husband's income figures cited by MassHealth which it used in its 2/22/24 eligibility determination; however, Appellant questioned why she would be ineligible given the household income has remained the same for years. Her husband is the only source of income in her family, which after deductions, amounts to barely \$4,000 per-month. Appellant testified that her daughter and daughter's boyfriend live with them and do not contribute to the household expenses.<sup>2</sup>

Appellant testified that she did not have any documentation from Social Security to verify that she is disabled. On 3/8/24 she faxed and mailed a completed DES supplement to MassHealth but had not heard back.

Appellant has had to go without PCA services since her benefit ended. She relies on the PCA to transfer her in and out of her wheelchair, in/out of bed, take her to doctors' appointments, and all other necessary aspects of daily living. Without her PCA, she is "bed bound." Her PCA had been coming in unpaid but is not going to do so any longer unless she is reinstated.

At the conclusion of the hearing, the record was left open to await DES's disability determination and for MassHealth to provide an update on the status of her eligibility for CommonHealth. See Exh. 6.

On 3/26/24, MassHealth stated that although DES had not yet rendered its disability determination, MassHealth was able to temporarily approve Appellant for CommonHealth for up to one-year. See Exh. 7. This protection will end once DES renders its disability determination, which will determine Appellant's continued eligibility for CommonHealth. Id. The MassHealth representative confirmed that he adjusted the CommonHealth benefit to start on 2/16/24 to ensure that Appellant did not have a lapse in coverage following her termination of her Standard benefit. Id.

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<sup>2</sup> Appellant confirmed that the daughter and boyfriend were over 19 years-old and not claimed as tax dependents.

## Findings of Fact

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

1. Appellant is between the ages of 21 and 65 and previously received MassHealth Standard through Social Security. (Exhibit 4; Testimony).
2. For over 9 years, Appellant was enrolled in MassHealth's PCA program as she is dependent on her PCA to help her perform activities of daily living. (Testimony).
3. On 2/16/24, Appellant's MassHealth Standard benefit ended because she failed to submit a renewal by the designated timeframe. (Testimony; Exhibit 4).
4. Appellant has been unable to pay her PCA since her benefit ended. (Testimony).
5. On 2/22/24, Appellant completed a MassHealth renewal and verified that she is in a household size of two (2), consisting of herself and her husband, with a verified current household income of \$1,295 per-week, amounting to \$5,611.24 per-month. (Testimony).
6. As of 2/22/24, MassHealth did not have any verification of Appellant's disability.
7. Through a notice dated 2/22/24, MassHealth notified Appellant that she did not qualify for MassHealth benefits because her income exceeded the program limit. (Exhibit 1; Testimony).
8. Appellant timely appealed the 2/22/24 notice. (Exhibit 2; Testimony).
9. On 3/8/24, Appellant sent DES a completed disability supplement; however, as of the hearing date, DES had not rendered a disability determination. (Testimony).
10. Following the hearing, MassHealth temporarily approved Appellant for CommonHealth starting 2/16/24 so that she would not have a gap in coverage following the termination of her Standard benefit. (Exhibits 6-7).
11. The CommonHealth protection will remain in effect for one-year, or until DES renders its disability determination, whichever is first; the DES disability determination will control whether Appellant remains eligible for her CommonHealth benefit. (Exhibits 6-7).

## Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly determined, pursuant to its 2/22/24 notice, that Appellant did not qualify for MassHealth benefits because her income exceeded the program limit. As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant with the most comprehensive benefit for which they are eligible. See 130 CMR 501.003(A). The MassHealth coverage types are listed as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,<sup>3</sup> disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) CommonHealth for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) Family Assistance for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) Small Business Employee Premium Assistance for adults or young adults ....
- (6) Limited for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (7) Senior Buy-in and Buy-in for certain Medicare beneficiaries.

See 130 CMR 505.001(A)

To establish eligibility for MassHealth, individuals must meet both categorical *and* financial requirements. To be *financially* eligible for Standard individuals must have a household income no greater than 133% of the FPL. See 130 CMR 505.002 The income for an individual in a household size of two (2) at 133% of the FPL, is \$2,266 for 2024. See 2024 MassHealth Income Standards & Federal Poverty Guidelines. It is undisputed that Appellant's husband receives gross monthly income of \$5,611.24. Because Appellant is married and lives with her spouse, her

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<sup>3</sup> "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

husband's income is counted in determining her eligibility. See 130 CMR 506.002. Appellant's household income, therefore, exceeds the allowable amount to qualify for Standard. For this reason, Appellant is also not financially eligible for CarePlus. See 130 CMR 505.008(B) (CarePlus is available for adults aged 21 through 64 who are not eligible for Standard **and** have income at, or less-than, 133% of the FPL).

In addition, at the time of its 2/22/24 eligibility determination, MassHealth did not have verification of Appellant's disability, which would otherwise render her eligible for CommonHealth. See 130 CMR 505.004(H).<sup>4</sup> Absent any verification that Appellant met both financial and categorical requirements for any of the coverage-types identified under 130 CMR 505.001(A), above, MassHealth did not err in its 2/22/24 eligibility determination.<sup>5</sup>

On this basis, the appeal is DENIED-in-part.

The record was, however, left open for verification of Appellant's disability, which, if received, would render her eligible for CommonHealth. See Exh. 6. Although DES did not render its disability determination during the record open period, MassHealth verified that it applied a temporary CommonHealth protection to Appellant's case to retroactively start on 2/16/24, the same date her Standard benefit ended. This protection will remain in-effect until DES renders its disability determination. Once the disability determination is rendered, MassHealth will proceed to determine Appellant's continued eligibility for CommonHealth.

The appeal is DISMISSED-in-part, as the temporary protection ensures that Appellant will not have a gap in coverage if she is deemed disabled and approved for CommonHealth.<sup>6</sup>

## **Order for MassHealth**

None.

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<sup>4</sup> For purposes of qualifying for CommonHealth "disability," is established by a determination of disability by SSA or DES, and verification of this must be provided to MassHealth. Although Appellant stated she was disabled by SSA, she did not have any available documentation to provide to MassHealth to verify this disability determination.

<sup>5</sup> There is no evidence to indicate that Appellant would be categorically eligible for coverage types (4) through (7).

<sup>6</sup> If, for any reason, Appellant is not deemed disabled or eligible for CommonHealth, MassHealth will notify her of such determination and advise her of her right to appeal the action.

## **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.

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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

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