

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2402866
<b>Decision Date:</b>	4/4/2024	<b>Hearing Date:</b>	03/28/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Elizabeth Nickoson

**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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	4/4/2024	<b>Hearing Date:</b>	03/28/2024
<b>MassHealth's Rep.:</b>	Elizabeth Nickoson	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 February 13, 2024, MassHealth notified the appellant that she does not qualify for MassHealth because she no longer meets the income requirements for the benefit. (130 CMR 506.000; Exhibit 1). The appellant filed an appeal in a timely manner on February 24, 2024. (130 CMR 610.015; Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that she does not qualify for MassHealth because she no longer meets the income requirements for the benefit. (130 CMR 506.000).

### Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility for MassHealth.

### Summary of Evidence

The appellant is in a family group of three with annual income of \$57,000 each year. The appellant

is employed as a personal care attendant and receives \$16,000 each year. The appellant's spouse is employed and receives \$41,000 each year. The MassHealth representative testified that to be eligible for MassHealth Standard, a family of three must have income that does not exceed \$34,344 each year. The MassHealth representative testified that even the income of the appellant's spouse alone is too high for the appellant to qualify for MassHealth. The appellant has not been deemed disabled by MassHealth or the Social Security Administration.

The MassHealth representative testified that the appellant and her spouse are enrolled in a plan through the Health Insurance Connector Authority. The plan has a monthly premium of \$97.17. The appellant's daughter is eligible for MassHealth Family Assistance as that program has different income limits for children younger than ■ years of age.

The appellant did not dispute the income information presented by MassHealth. The appellant testified that she cannot afford to pay for health insurance. The appellant wanted the agency to consider expenses such as rent, utilities and groceries in determining eligibility.

## **Findings of Fact**

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

1. The appellant is a member of a family group of three.
2. The appellant is employed and has income of \$16,000 each year.
3. The appellant's spouse is employed and has income of \$41,000 each year.
4. The appellant has not been deemed disabled by MassHealth or the Social Security Administration.
5. The appellant's income is over 133% of the federal poverty level.

## **Analysis and Conclusions of Law**

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- (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 (MSP, also called Senior Buy-in and Buy-in) – for certain Medicare beneficiaries.

The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001). The financial standards referred to in 130 CMR 505.000 use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: Household Composition. (130 CMR 505.001(B)).

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. MassHealth determines household composition through the Modified Adjusted Gross Income (MAGI) composition rules and the MassHealth Disabled Household composition rules. (130 CMR 506.002(A)). Individuals who expect to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who are not claimed as a tax dependent by another taxpayer have a household consisting of:

- (a) the taxpayer; including his or her spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer's spouse, if living with him or her regardless of filing status;
- (c) all persons the taxpayer expects to claim as tax dependents; and
- (d) if any individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children. (130 CMR 506.002(B)(1)).

The appellant did not dispute the fact that she is a member of a family group of three. (130 CMR 506.002(B)(1)). The appellant has not been deemed disabled by MassHealth or the Social Security Administration.

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. (130 CMR 506.007). Different households may exist within a single family, dependent on the family members' familial and tax relationships to each other. (130 CMR 506.007). The appellant's household meets the definition of a MassHealth MAGI household of three. (130 CMR 506.002).

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth MAGI households. (130 CMR 506.007). 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). (130 CMR 506.007). Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007). The earned income from the appellant and her spouse are the basis for establishing her eligibility for MassHealth.

The regulations define earned income as 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. (130 CMR 506.003(A)(1)). The wages of the appellant and her spouse meet the definition of earned income.

MassHealth allows the following deductions from countable income when determining MAGI:

- (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. (130 CMR 506.003(D)).

The appellant did not present evidence of any of these expenses or deductions for MassHealth to consider. (130 CMR 506.003(D)).

In determining monthly income, MassHealth averages weekly income by 4.333. (130 CMR 506.007(A)). Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household's total countable income to determine eligibility of the individual under the coverage type with the highest income standard. (130 CMR 506.007(A)). In this case, deducting \$107.60 from the income amounts discussed at hearing, \$4,750.00 each month, results in a countable monthly income of \$4,642.40 which places the appellant at 215.72% of

the federal poverty level using an income chart showing 100% of the federal poverty level for a family of 3 as \$2,152 [ $\$4,642.40 \div \$2,152 = 215.72\%$ ].

As the appellant's modified adjusted gross income is above 133% of the federal poverty level for a family group of three and the appellant has not been deemed disabled, she does not qualify for MassHealth.

The decision made by MassHealth was correct.

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.

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Susan Burgess-Cox  
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