

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2403077
<b>Decision Date:</b>	04/25/2024	<b>Hearing Date:</b>	04/04/2024
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Elizabeth Nickoson, Taunton 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	<b>Issue:</b>	Under 65-Eligibility
<b>Decision Date:</b>	04/25/2024	<b>Hearing Date:</b>	04/04/2024
<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 14, 2024, MassHealth determined that the appellant is not eligible for MassHealth because her income is too high. (130 CMR 506.003; 130 CMR 506.007(B); Exhibit 1). The appellant filed a timely appeal on February 29, 2024. (130 CMR 610.015(B) Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032(A)(1)).

### Action Taken by MassHealth

MassHealth notified the appellant that she does not qualify for MassHealth because her income is too high.

### Issue

Whether MassHealth was correct in determining that the appellant is not eligible for MassHealth because her income is too high. (130 CMR 506.007(B); 130 CMR 502.003).

### Summary of Evidence

The appellant is an adult under the age of 65 and in a household of two. On February 14, 2024, the

appellant submitted an income update to MassHealth. The appellant has not been eligible for MassHealth since 2018 but may be eligible for a ConnectorCare Plan through the Health Insurance Connector Authority.

The appellant's spouse, who is over the age of 65, receives \$1,907 each month from the Social Security Administration. The appellant is employed and receives \$329.00 each week or \$1,425.55 each month.<sup>1</sup> After applying a regulatory 5% disregard of \$82.20, the appellant's Modified Adjusted Gross Income (MAGI) of \$3,250.35 was at 197.70% of the federal poverty level for a household of two at the time of the eligibility decision. In March 2024, MassHealth performed an annual update of income guidelines based on a Cost of Living Adjustment (COLA). Using these new figures, including a new 5% disregard of \$85.20, the appellant's MAGI of \$3,247.35 is at 190.57% of the federal poverty level for a household of two. The MassHealth representative testified that to be eligible for MassHealth an individual has to have MAGI less than or equal to 133% of the federal poverty level. At the time of the eligibility decision, that limit was \$2,186 for a household of two. The annual COLA places that limit at \$2,266 for a household of two. The MassHealth representative stated that the appellant may obtain health insurance through the Health Insurance Connector Authority. The MassHealth representative stated that the appellant may file a hardship waiver with the Health Insurance Connector Authority. The MassHealth representative stated that she will mail a disability supplement to the appellant.

The appellant and her spouse participated telephonically. The appellant verified her identity and authorized her spouse to serve as her appeal representative. The appellant did not challenge the household or income information presented by MassHealth. The appellant's husband testified that they owe approximately \$800.00 to Eversource for a gas bill and the amount of their household Supplemental Nutrition Assistance Program (SNAP) benefits has been reduced. Additionally, the appellant's spouse testified that the appellant has been taking Levothyroxine for a thyroid condition and argued that because this is a "life-saving" drug, it should qualify as a "special circumstance" and entitle her to MassHealth benefits. The appellant has not been deemed disabled by MassHealth or the Social Security Administration.

## Findings of Fact

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

1. The appellant is under age 65, in a household of two, including herself and her spouse who is over 65 years of age.

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<sup>1</sup> In determining monthly income, MassHealth multiplies average weekly income by 4.333. (130 CMR 506.007(A)).

2. The appellant's spouse receives \$1,907.00 each month from the Social Security Administration.
3. The appellant receives earned income in the amount of \$329.00 each week or \$1,425.55 each month.
4. The appellant has a total monthly household income of \$3,332.55.
5. The appellant has not been deemed disabled by MassHealth or the Social Security Administration.

## **Analysis and Conclusions of Law**

MassHealth regulations at 130 CMR 505.000 explain the categorical requirements and financial standards that must be met to qualify for MassHealth. To establish eligibility for MassHealth, applicants must meet both the categorical requirements and financial standards.

These coverage types set forth at 130 CMR 505.001(A) are as follows:

- (1) MassHealth Standard - for people who are pregnant, children, parents and caretaker relatives, young adults<sup>2</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) 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, CommonHealth, or CarePlus;
- (5) MassHealth 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
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-In and Buy-In) for certain Medicare beneficiaries.

In this case, the appellant is over the age of 21 but under 65. The appellant has not presented any

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<sup>2</sup> "[Y]oung adults" is defined as those aged 19 and 20. See 130 CMR 501.001.

evidence that she has any of the listed health conditions. Although the appellant's spouse testified that the appellant is dependent on a "life-saving" medication, her condition does not fall under any of the categories enumerated by 130 CMR 505.001(A). The appellant also believes her medical condition makes her disabled. However, the appellant has not been deemed disabled by MassHealth or the Social Security Administration. Therefore, the appellant does not qualify for MassHealth Standard, or CommonHealth. The appellant does meet the categorical requirements for MassHealth CarePlus.

An individual between the ages of 21 and 64 who is categorically eligible for MassHealth CarePlus can only be financially eligible if "the individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level." (130 CMR 505.008(A)(2)(c)). To determine financial eligibility pursuant to 130 CMR 506.007(A), MassHealth must construct a household as described in 130 CMR 506.002(B) for each individual who is applying for or renewing coverage. MAGI household composition rules used to determine member eligibility are the following:

- (1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists 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.

The appellant is in a household of two, consisting of herself and her spouse.

Once the individual's household size is established, the MassHealth MAGI household income is determined in the following manner:

- (2)....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(K).

(b) Countable income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B)<sup>3</sup> 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. (130 CMR 506.007(A)).

Additionally, the following deductions are allowed when calculating MAGI countable income:

- (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 meeting any of these deductions. Instead, the appellant's spouse presented information on bills of \$800.00 from Eversource and a reduction in SNAP benefits. The appellant argued that expenses such as utility bills and a reduction in SNAP benefit should be considered in determining eligibility. Since neither the appellant's expenses nor the reduction in her benefits fall within the allowable deductions enumerated in 130 CMR 506.003 (D), they cannot be considered in determining eligibility.

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<sup>3</sup> Pursuant to 130 CMR 506.003(B), countable income includes, in relevant part, unearned income, which "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."

The appellant's income is \$3,332.55 per month. Five percentage points of the 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. (130 CMR 506.007(A)). At the time of the eligibility decision, 5 percentage points of the FPL was \$82.20 each month. Deducting that amount from the appellant's income resulted in a MAGI of \$3,250.35 each month which is at 197.70% of the Federal Poverty Level for a household of two.

Based on 2024 income standards, 5 percentage points of the FPL is \$85.20 resulting in a MAGI of \$3,247.35 each month which is at 190.57% of the FPL. The income limit for MassHealth benefits is 133% of the FPL, or \$2,186 at the time of the eligibility decision and \$2,266 at the time of this hearing decision. The appellant's household income exceeds these limits. Therefore, the appellant is not eligible 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