Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2406317
Decision Date:	07/23/2024	**Hearing Date:**	06/05/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
[redacted]

Appearance for MassHealth:
Liz 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

Appeal Decision:	Denied	**Issue:**	Community Eligibility—Under 65
Decision Date:	07/23/2024	**Hearing Date:**	06/05/2024
MassHealth's Rep.:	Liz Nickoson	**Appellant's Rep.:**	[redacted]
Hearing Location:	Taunton MassHealth Enrollment Center (Telephone)	**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 2, 2024, MassHealth terminated the Appellant's benefits effective February 29, 2024, because MassHealth determined that the Appellant's income is too high. *See* 130 CMR 506.007(B), 130 CMR 502.003, and Exhibit 1. The Appellant filed this appeal on April 22, 2024. Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth benefits on the grounds that his income is too high.

Issue

The preliminary issue is whether the Appellant's appeal is timely, pursuant to 130 CMR 610.015(B), and secondarily, whether MassHealth was correct, pursuant to 130 CMR 506.007(B) and 130 CMR 502.003, in terminating the Appellant's MassHealth coverage.

Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is an adult between the ages of 21-64 and has a household size of one. The MassHealth representative testified that the Appellant is a tax filer and his annual income is $57,4771, which is 389.04% of the federal poverty level. The MassHealth representative testified that the Appellant is eligible for a Connector Care plan. The MassHealth representative testified that on January 2, 2024, the Appellant completed his renewal which generated the January 2, 2024, termination notice, as his income was too high. The MassHealth representative testified that the Appellant was enrolled in MassHealth CarePlus from September 3, 2021, until February 29, 2024. The MassHealth representative testified that MassHealth CarePlus has an income limit of 133% of the federal poverty level, or $1,670/month for a household of one.

The Appellant verified his identity and income. The Appellant testified that he filled out his MassHealth renewal online and only got a notification that it was submitted, not that his benefits were changing. The Appellant testified that he did not receive notice that his benefits were ending, and that his first notice that his CarePlus benefits ended was when he had a medical appointment on March 11, 2024. The Appellant testified that the cost of his uncovered medical expenses is a significant burden and he would like to be reimbursed for those expenses. The Appellant also provided examples of dental treatment that MassHealth had approved on February 16, 2024, which was not fulfilled. Exhibits 2, 5. The Appellant confirmed the address that was listed on the January 2, 2024, termination notice is his correct address.

The Appellant filed his appeal on April 22, 2024. The Board of Hearings dismissed the appeal due to it being untimely. Exhibit 6. The Appellant appealed the dismissal, which was allowed. Exhibit 7.

Findings of Fact

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

1. The Appellant is an individual between the ages of 21 and 64 years old. Testimony, Exhibit 4.

2. The Appellant has an annual income of $57,4771, which is 389.04% of the federal poverty level. Testimony.

3. The Appellant completed his renewal on January 2, 2024. Testimony.

4. The Appellant's MassHealth CarePlus benefits were terminated effective February 29, 2024, by written notice dated January 2, 2024. The January 2, 2024, notice is addressed to the Appellant's correct address. Testimony, Exhibit 1 *compare* Exhibit 2.
5. The Appellant filed his appeal on April 22, 2024. Exhibit 2.

Analysis and Conclusions of Law

A preliminary issue is whether the Appellant's appeal is timely. The MassHealth regulations provide:

610.015: Time Limits

(A) Timely Notice. Before an intended appealable action, the MassHealth agency must send a written timely notice to the member except as provided in 130 CMR 610.027. A timely notice is a notice mailed at least ten days before the action. Such notice must include a statement of the right of appeal and the time limit for appealing.

(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

(1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;

(2) unless waived by the BOH Director or his or her designee, 120 days from

(a) the date of application when the MassHealth agency fails to act on an application;

(b) the date of request for service when the MassHealth agency fails to act on such request;

(c) the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action; or

(d) the date of the alleged coercive or otherwise improper conduct, but up to one year from the date of the conduct if the appellant files an affidavit with the BOH Director stating the following, and can establish the same at a hearing (Failure to substantiate the allegation either before or at the hearing will be grounds for dismissal.):

1. he or she did not know of the right to appeal, and reasonably believed that the problem was being resolved administratively or he or she was justifiably unaware of the conduct in question; and
2. the appeal was made in good faith.

(3) 30 days after a resident receives written notice of an intent to discharge or transfer pursuant to 130 CMR 610.029(A);

(4) 30 days after a nursing facility initiates a transfer or discharge or fails to readmit and fails to give the resident notice;

(5) 14 days after a resident receives written notice of an emergency discharge or emergency transfer pursuant to 130 CMR 610.029(B);

(6) 14 days after a resident receives written notice of a transfer or discharge that is the result of a nursing facility's failure to readmit the resident following hospitalization or other medical leave of absence;

(7) for appeals of a decision reached by a managed care contractor:

(a) 120 days after the member's receipt of the managed care contractor's final internal appeal decision where the managed care contractor has reached a decision wholly or partially adverse to the member, provided however that if the managed care contractor did not resolve the member's appeal within the time frames described by 130 CMR 508.010(A), 120 days after the date on which the time frame for resolving that appeal has expired;

(b) for timing of request for continuation of benefits pending appeal, see 130 CMR 610.036.

(8) for appeals of PASRR determinations, 30 days after an individual receives written notice of his or her PASRR determination. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing.

(C) Computation of Time.

(1) Computation of any period referred to in 130 CMR 610.000 is on the basis of calendar days except where expressly provided otherwise. Time periods expire on the last day of such periods unless the day falls on a Saturday, Sunday, legal holiday, or other day on which BOH is closed, in which event the last day of the time period is deemed to be the next day on which BOH is open.

(2) In the absence of evidence or testimony to the contrary, it will be presumed that a notice was received by an appellant on the fifth day after the date of the notice, regardless of whether the fifth day after the date of the notice falls on a Saturday, Sunday, legal holiday, or other day on which BOH is closed. If an appellant dies on or prior to the date of presumed receipt, then for the purposes of determining whether an appeal request is timely, the appealable notice is still presumed to have been received no later than the fifth day after the date of the notice.

130 CMR 610.015(A), (B), (C).

MassHealth notified the Appellant by written notice, dated January 2, 2024, that his benefits would terminate February 29, 2024, because his income was too high. MassHealth provided more than ten days' notice of the intended action. 130 CMR 610.015(A). The Appellant confirmed that the address listed on the notice is his correct address. Exhibit 1. Accordingly, in order to be timely, the Appellant would have need to file his appeal by March 7, 2024. 130 CMR 610.015(B)(1), (C)(1). Thus, the appeal is untimely and denied on that basis.

While I have found that the appeal is not timely, I will also address whether MassHealth correctly determined that the Appellant's gross household income exceeded program limits to qualify for MassHealth benefits, specifically MassHealth CarePlus. 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. 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,[1] 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;
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> (3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
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> (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.

130 CMR 505.001(A).

To establish eligibility for MassHealth, applicants must meet both the categorical and financial requirements. To calculate financial eligibility, MassHealth regulations at 130 CMR 506.007 provide that:

> (A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type.
>
> (1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different

[1] "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) 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 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(M).

(b) 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).

(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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.

(2) Round these annual figures up to the nearest hundredth.

(3) Divide by 12 to arrive at the monthly income standards.

130 CMR 506.007.

Here, to be eligible for MassHealth CarePlus, an individual's modified adjusted gross income must be less than or equal to 133% of the federal poverty level. 130 CMR 505.008(A)(2)(c); *see also* 130 CMR 501.010(B) (member's responsibilities include reporting to MassHealth changes in income within ten days or as soon as possible). The Appellant did not dispute that his annual income is $57,4771, which is 389.04% of the federal poverty level. This exceeds 133% of the federal poverty level. 130 CMR 505.008(A)(2)(c). As such, the Appellant does not meet the

financial requirements to qualify for MassHealth CarePlus. Therefore, MassHealth did not err in issuing the January 2, 2024, termination notice.[2]

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.

Emily Sabo
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

[2] The Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765).