

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied; Remand	Appeal Number:	2406765
Decision Date:	06/13/2024	Hearing Date:	05/28/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:



Appearance for MassHealth:

Jada Newsome, 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

Appeal Decision:	Denied; Remand	Issue:	Eligibility; Under 65; MassHealth CommonHealth
Decision Date:	06/13/2024	Hearing Date:	05/28/2024
MassHealth's Rep.:	Jada Newsome	Appellant's Rep.:	██████████
Hearing Location:	Quincy Harbor South (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 April 9, 2024, MassHealth denied the Appellant's application for MassHealth benefits on behalf of her ██████████ child because MassHealth determined that the Appellant's minor child had other health insurance. Exhibit 1 (citing 130 CMR 505.002(M)(N), 130 CMR 505.005(D), & 130 CMR 522.004(C)). The Appellant filed this appeal in a timely manner on April 29, 2024.¹ 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's minor child benefits because MassHealth determined that the Appellant's minor child had other health insurance.

Issue

¹ The appeal states in part, "We are appealing with new diagnostic information. These diagnoses require additional specialists and doctors that our primary insurance will not cover." Exhibit 2 at 1. The Appellant submitted additional medical information as part of the appeal record. Exhibit 4.

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(M)(N), 130 CMR 505.005(D), & 130 CMR 522.004(C), in denying the Appellant's minor child MassHealth benefits.

Summary of Evidence

The hearing was held telephonically. The Appellant verified her daughter's identity. The Appellant testified that she is seeking secondary health insurance for her [REDACTED] child. The Appellant explained that the household has employer-sponsored insurance through her husband's employer, but the household's private insurance was denying requests for the child's medical equipment, and that they had denied \$17,000 worth of requests in the past year.

The MassHealth representative testified that the Appellant's child had a household size of three, consisting of the Appellant, the child, and the child's father. The MassHealth representative testified that the household's gross monthly income was \$16,751, which is 513% of the federal poverty level, such that the child was not financially eligible for MassHealth Standard or the Children's Medical Security Plan. The MassHealth representative stated that the child's application indicated that the child had a disability, and that the household had completed and submitted a disability supplement to Disability Evaluation Services. The Appellant stated that she did not understand why the disability evaluation process was taking so long, because it had been more than a month since the supplement was submitted.²

Findings of Fact

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

1. The Appellant's child is [REDACTED] old. Testimony.
2. The Appellant's child has a household size of three, consisting of the child and two parents. Testimony.
3. The Appellant's child's household gross income is \$16,751/monthly and 513% of the federal poverty level. Testimony.
4. The Appellant's child is enrolled in private health insurance as her primary insurance. Testimony, Exhibits 2 & 4.

² At the hearing, the hearing officer clarified that there had not been a disability determination from Disability Evaluation Services, and that her jurisdiction was limited to the notice appealed.

5. The Appellant submitted a disability supplement to Disability Evaluation Services on behalf of her child. Testimony.
6. The Appellant's child has a number of health conditions. Testimony, Exhibits 2 & 4.
7. The Appellant is seeking MassHealth as a secondary insurance for her child. Testimony, Exhibits 2 & 4.

Analysis and Conclusions of Law

In its denial notice, MassHealth stated that the Appellant's child did not qualify for "MassHealth, Health Safety Net, or the Children's Medical Security Plan" because the child had "other health insurance." Exhibit 1 at 1 (citing 130 CMR 505.002(M)(N), 130 CMR 505.005(D), & 130 CMR 522.004(C)).

The MassHealth Regulations provide:

505.002: MassHealth Standard

(A) Overview.

- (1) 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F).
- (2) Persons who receive Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA) are eligible for MassHealth Standard.
- (3) Persons who receive Transitional Aid to Families with Dependent Children (TAFDC) cash assistance from the Department of Transitional Assistance (DTA) are eligible for MassHealth Standard.
- (4) Children, young adults, and parents and caretaker relatives who receive Emergency Aid to the Elderly, Disabled and Children (EAEDC) cash assistance are eligible for MassHealth Standard if they meet the citizenship and immigration requirements described at 130 CMR 504.002: *U.S. Citizens* and 130 CMR 504.003(A)(1): *Qualified Noncitizens*, (2): *Qualified Noncitizens Barred*, and (3): *Nonqualified Individuals Lawfully Present*.
- (5) Persons who do not otherwise meet the requirements of 130 CMR 505.002, but who meet the AFDC rules that were in effect on July 16, 1996, are eligible for MassHealth Standard.

(6) Persons eligible for MassHealth Standard coverage are eligible for medical benefits as described at 130 CMR 450.105(A): *MassHealth Standard* and 130 CMR 508.000: *MassHealth: Managed Care Requirements*.

(B) Eligibility Requirements for Children and Young Adults. Children and young adults may establish eligibility for MassHealth Standard coverage subject to the requirements described in 130 CMR 505.002(B).

(1) Children Younger than One Year Old.

(a) A child younger than one year old born to an individual who was not receiving MassHealth Standard on the date of the child's birth is eligible if

1. the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 200% of the federal poverty level (FPL); and
2. the child is a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*.

(b) A child born to an individual who was receiving MassHealth on the date of the child's birth is automatically eligible for one year and is exempt from the requirement to provide verification of citizenship and identity.

(c) A child receiving MassHealth Standard who receives inpatient services on the date of their first birthday remains eligible until the end of the stay for which the inpatient services are furnished.

(2) Children One through 18 Years Old.

(a) A child one through 18 years old is eligible if

1. the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 150% of the federal poverty level; and
2. the child is a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as described in 130 CMR 504.003(A): *Lawfully Present Immigrants*.

(b) Eligibility for a child who is pregnant is determined under 130 CMR 505.002(D).

130 CMR 505.002(A), (B).

505.005: MassHealth Family Assistance

(B) Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 150% and Less than or Equal to 300% of the Federal Poverty Level. Children younger than 19 years old are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(B) if they meet the following criteria.

(1) Eligibility Requirements. A child is eligible if

- (a) the child is younger than 19 years old;
- (b) the child's modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL);
- (c) the child is ineligible for MassHealth Standard or CommonHealth;
- (d) the child is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as defined in 130 CMR 504.003(A), or a nonqualified PRUCOL, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*;
- (e) the child complies with 130 CMR 505.005(B)(2) and meets one of the following criteria:
 - 1. the child is uninsured; or
 - 2. the child has health insurance that meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*.

(2) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Family Assistance. MassHealth may perform an investigation to determine if individuals potentially eligible for MassHealth Family Assistance

- (a) have health insurance that MassHealth can help pay for; or
- (b) have access to employer-sponsored insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.
 - 1. Investigations for Individuals Who Are Enrolled in Health Insurance.
 - a. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Family Assistance Premium Assistance Payments as described at 130 CMR 450.105(G)(1): *Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*.
 - b. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual continues to be eligible for MassHealth Family Assistance.

130 CMR 505.005(B).

522.004: Children's Medical Security Plan (CMSP)

- (C) Eligibility Requirements. Children are eligible for CMSP if they are
 - (1) a resident of Massachusetts, as defined in 130 CMR 503.002: *Residence Requirements*;
 - (2) younger than 19 years old;
 - (3) not otherwise eligible for any other MassHealth coverage type, other than MassHealth Limited. Children who are otherwise eligible and who are not

receiving MassHealth coverage as a result of not complying with administrative requirements of MassHealth are not eligible for CMSP. Children who lose eligibility for MassHealth Family Assistance as a result of nonpayment of premiums or as a result of not enrolling in employer-sponsored health insurance through Premium Assistance are not eligible for CMSP; and

(4) uninsured. An applicant or member is uninsured if he or she

(a) does not have insurance that provides physician and hospital health-care coverage;

(b) has insurance that is in an exclusion period; or

(c) had insurance that has expired or has been terminated.

130 CMR 522.004(C).

Here, the Appellant's child's household income is 513% of the federal poverty level, so she is not financially eligible for either MassHealth Standard or MassHealth Family Assistance. 130 CMR 505.002(B)(2)(a), 130 CMR 505.005(B)(1)(b). Because the Appellant's child's is already enrolled in private insurance, she is not uninsured and so is not eligible for the CMSP. 130 CMR 522.004(C)(4). Accordingly, MassHealth did not err in denying the Appellant's child's application and the appeal is denied.

As clarified in the Appellant's fair hearing request and her testimony, the Appellant is seeking MassHealth benefits as a secondary insurance for her child. As relevant here, the MassHealth regulations provide the following:

505.004: MassHealth CommonHealth

(A) Overview.

(1) 130 CMR 505.004 contains the categorical requirements and financial standards for CommonHealth coverage available to both disabled children and disabled adults, and to disabled working adults.

(2) Persons eligible for MassHealth CommonHealth coverage are eligible for medical benefits as described in 130 CMR 450.105(E): *MassHealth CommonHealth*.

....

(G) Disabled Children Younger than 18 Years Old. Disabled children younger than 18 years old must meet the following requirements:

(1) be permanently and totally disabled, as defined in 130 CMR 501.001:

Definition of Terms;

(2) be ineligible for MassHealth Standard; and

(3) be a citizen as described at 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrant, or a nonqualified PRUCOL, as described in 130 CMR 504.003:

Immigrants.

- (H) Determination of Disability. Disability is established by
- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
 - (2) a determination of disability by the SSA; or
 - (3) a determination of disability by the Disability Evaluation Services (DES).

(I) MassHealth CommonHealth Premium. Disabled adults, disabled working adults, disabled young adults, and disabled children who meet the requirements of 130 CMR 505.004 may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). No premium is assessed during a deductible period.

(J) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits, in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by the MassHealth agency in accordance with 130 CMR 505.002(O) and 130 CMR 506.012: *Premium Assistance Payments*. Members must access those other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

(K) Access to Employer-sponsored Health Insurance and Premium-assistance Investigations for Individuals Who Are Eligible for MassHealth CommonHealth.

- (1) MassHealth may perform an investigation to determine if individuals receiving MassHealth CommonHealth
 - (a) have health insurance that MassHealth may help pay for; or
 - (b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.
- (2) The individual receives MassHealth CommonHealth while MassHealth investigates the insurance.

(a) Investigations for Individuals Who Are Enrolled in Health Insurance.

1. If MassHealth determines that the health insurance that the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth CommonHealth Premium Assistance as described at 130 CMR 506.012: *Premium Assistance Payments*.
2. If MassHealth determines that the health insurance that the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual continues to be eligible for MassHealth CommonHealth.

(b) Investigations for Individuals Who Have Potential Access to Employer-

sponsored Health Insurance.

1. If MassHealth determines that the individual has access to employer-sponsored health insurance, the employer is contributing at least 50% of the premium cost, and the insurance meets all other criteria described in 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides premium assistance payments as described in 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 19 years old, the individual is 19 or 20 years old, and has household income less than or equal to 150% of the federal poverty level, or is pregnant.
2. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth CommonHealth.

(L) Medicare Premium Payment.

- (1) The MassHealth agency, in accordance with the Medicare Savings Program as described in 130 CMR 519: *Medicare Savings Program (MSP) – Qualified Medicare Beneficiaries (QMB)* and 519.011: *Medicare Saving Program (MSP) – Specified Low Income Medicare Beneficiaries and Qualifying Individuals* also pays the cost of the monthly Medicare Part B premium on behalf of members who meet the requirements of 130 CMR 505.004 and who have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 135% of the FPL.
- (2) The coverage described in 130 CMR 505.004(L)(1) begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth.

(M) Medical Coverage Date.

- (1) The medical coverage date for MassHealth CommonHealth is described at 130 CMR 502.006: *Coverage Dates*, except as described at 130 CMR 505.004(M)(2) and (3).
- (2) Persons described in 130 CMR 505.004(C) who have been notified by the MassHealth agency that they must meet a one-time deductible have their medical coverage date established in accordance with 130 CMR 506.009(E): *Notification of the Deductible*.
- (3) Provisional eligibility is described in 130 CMR 502.003(E): *Provisional Eligibility*.

130 CMR 505.004(A), (G), (H), (I), (J), (K), (L), (M).

As stated above, the determination of whether the Appellant's child has a qualifying disability as provided by 130 CMR 505.004(G)(1), (H) is pending before Disability Evaluation Services. As discussed at the hearing, due to the household income, if the child is found to be eligible for MassHealth CommonHealth, the household will likely be assessed a premium in accordance with 130 CMR 505.004(I) and 130 CMR 506.011. The household may also be eligible for premium assistance payments in accordance with 130 CMR 506.012. The matter is remanded to MassHealth to determine whether the child is disabled in accordance with 130 CMR 505.004(G)(1), and if she is therefore eligible for MassHealth CommonHealth.³

Order for MassHealth

Process the submitted disability supplement for the Appellant's child to determine whether the child qualifies as a disabled child for MassHealth CommonHealth. Notify the Appellant of the determination. If MassHealth determines that the child is eligible for MassHealth CommonHealth, notify the Appellant of any assessed premium owed to MassHealth, and premium assistance available toward the private insurance costs.

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.

³ If MassHealth determines that the Appellant's child is totally and permanently disabled, she may be eligible for MassHealth CommonHealth as secondary insurance. 130 CMR 505.004(G)(1). The child's eligibility start date should also be considered in accordance with the initial application for MassHealth benefits and as provided for in 130 CMR 502.006(A)(2)(c)1.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

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