

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2406890
Decision Date:	7/9/2024	Hearing Date:	6/7/2024
Hearing Officer:	Cynthia Kopka		

Appearances for Appellant:



Appearance for MassHealth:

Maran Yi, Tewksbury



*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:	Eligibility, under 65, income
Decision Date:	7/9/2024	Hearing Date:	6/7/2024
MassHealth's Rep.:	Maran Yi	Appellant's Reps.:	Pro se with ex-spouse
Hearing Location:	Tewksbury (remote)	Aid Pending:	Yes

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

By notice dated April 16, 2024, MassHealth notified Appellant that it would terminate his MassHealth Standard benefit on April 30, 2024. Exhibit 1. Appellant filed this appeal in a timely manner on April 30, 2024 and was eligible to retain the benefits pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination, modification, or denial of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth notified Appellant that it would terminate MassHealth Standard on April 30, 2024.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's income was too high to qualify for benefits.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is between the ages of 60 and 65. Appellant had received MassHealth Standard as a long-term care resident during the Covid-19 public health emergency until early 2022 and this coverage was protected until redeterminations were made. In January 2024, MassHealth processed Appellant's renewal for community benefits. On April 16, 2024, MassHealth notified Appellant that his MassHealth Standard benefit would terminate on April 30, 2024. Appellant is disabled and is clinically eligible for a frail elder waiver (FEW).

Appellant's household income includes \$1,839 from a private annuity and \$2,861.70 from Social Security, for total monthly income of \$4,700.70. The MassHealth representative testified that the maximum income limit for MassHealth Standard through the FEW is \$2,829 monthly. To calculate Appellant's deductible, MassHealth subtracted from the monthly income \$472 for his health insurance premium and \$174.70 for his Medicare premium. MassHealth calculated a six month deductible of \$21,067. Exhibit 1.

MassHealth explained the process of applying for a personal care attendant (PCA) disregard, which would help to lower the deductible. MassHealth also explained MassHealth's CommonHealth program for disabled applicants. The MassHealth representative agreed to mail Appellant copies of both applications.

Appellant appeared by phone with his ex-spouse. Appellant's former spouse asked whether an annuity Appellant has would count as income or assets, and MassHealth confirmed that it was part of the income stream. Appellant relies upon PCA services he receives at home, as he is homebound without assistance. Appellant has Parkinson's disease and post-polio syndrome. Appellant is a veteran. Appellant was receptive to the alternative ways of qualifying for MassHealth and his spouse would consult with a SHINE representative for further assistance. Appellant asked if rent is included in MassHealth's determination of monthly income. Appellant testified that his private insurance premium increased to \$517.03.

Findings of Fact

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

1. Appellant is in a household of one and between the ages of 60 and 65.
2. Appellant was in a long term care facility and was discharged to the community in 2022.
3. Appellant is disabled and is clinically eligible for a FEW.
4. Appellant's gross monthly unearned income is \$4,700.70.

5. In 2024, 100% of the monthly federal poverty level (FPL) for a household of one was \$1,255.
6. In 2024, 300% of the federal benefit rate (FBR) was \$2,829.
7. On April 16, 2024, MassHealth notified Appellant that his MassHealth Standard benefit would terminate on April 30, 2024. MassHealth calculated a six month deductible of \$21,067. Exhibit 1.
8. Appellant filed this appeal in a timely manner on April 30, 2024 and was eligible to retain the previous benefit level pending the outcome of the appeal. Exhibit 2.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (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 – for certain Medicare beneficiaries.

130 CMR 505.001(A).

In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes the countable income, which includes earned

income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. Per 130 CMR 506.003, the regulatory definitions of earned income, unearned income and deductions are as follows:

(A) Earned Income.

(1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.

(2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.

(3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income 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.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

(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.

An adult under the age of 64 is eligible for MassHealth Standard as a disabled individual if their income is less than or equal to 133% of the FPL (\$1,670). 130 CMR 505.002(E)(1)(b). An individual over the age of 60 is eligible for MassHealth's FEW if their income is at or below 300% of the FBR (\$2,829). 130 CMR 519.007(B)(2)(b). If an individual exceeds these standards, he or she may establish eligibility by meeting a deductible. 130 CMR 519.005(B). The amount of the deductible may be reduced if Appellant is deemed eligible for the PCA disregard. 130 CMR 520.013(B).

Here, Appellant's monthly gross income is \$4,700.70, which exceeds the 133% limit to qualify for MassHealth Standard. This also exceeds the limit for the FEW. Appellant may establish eligibility by meeting a deductible and may submit proof of the change in his health insurance costs to adjust the deductible calculation. Appellant is encouraged to submit the PCA supplement for consideration of the PCA disregard. Appellant may also explore eligibility through MassHealth CommonHealth.

This appeal is denied.

Order for MassHealth

Remove aid pending.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957