

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407324
Decision Date:	7/15/2024	Hearing Date:	06/17/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kristine Angelari



*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
Decision Date:	7/15/2024	Hearing Date:	06/17/2024
MassHealth's Rep.:	Kristine Angelari	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center	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 22, 2023, MassHealth determined the appellant does not qualify for MassHealth but does qualify for the Health Safety Net as of December 4, 2023. (130 CMR 505.000; Exhibit 1A). Through a notice dated April 26, 2024, MassHealth determined the appellant is eligible for MassHealth CarePlus as of April 12, 2024. (130 CMR 505.000; Exhibit 1B). The appellant appealed both decisions in a timely manner on May 7, 2024. (130 CMR 610.015; Exhibit 2). Denial of assistance and a decision regarding the scope or amount of assistance are valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant became eligible for MassHealth CarePlus as of April 12, 2024.

Issue

Whether MassHealth was correct in determining the appellant's eligibility and coverage start date. (130 CMR 505.000).

Summary of Evidence

The appellant and the MassHealth representative appeared in person. Documents submitted by MassHealth were incorporated into the hearing record as Exhibit 4.

In December 2023, MassHealth determined that the appellant was no longer eligible for MassHealth Standard as of December 28, 2023. (Testimony; Exhibit 4). The appellant did not appeal that decision. The appellant filed a disability supplement. In April 2024, the MassHealth Disability Evaluation Services (DES) determined that the appellant did not meet the requirements to be deemed disabled by MassHealth. Upon receiving this information, MassHealth conducted another eligibility review and issued a notice deeming the appellant eligible for the Health Safety Net alone. On April 22, 2024, MassHealth also sent the appellant a request to verify her income. On April 26, 2024, MassHealth received updated income information and deemed the appellant eligible for MassHealth CarePlus as of April 12, 2024.

The appellant is a family group of one with earnings of \$222.75 each week or a monthly income of \$965.17 [$\$222.75 \times 4.333 = \965.17]. Applying the regulatory disregard of 5 percentage points of the federal poverty level, the appellant has countable income of \$902.42 [$\$965.17 - \$62.75 = \902.42]. This places the appellant at 71.91% of the federal poverty level [$\$902.42 \div \$1,255 = 0.7191 \times 100 = 71.91\%$]. MassHealth determined the appellant eligible for MassHealth CarePlus as of April 12, 2024 as the agency received verification that the appellant's income was below 133% of the federal poverty level.

At hearing, the appellant noted that she did not challenge the decision made by DES. The appellant was seeking MassHealth coverage back to the termination date in December 2023 as she has medical bills from January 2024 and February 2024 that she would like covered by MassHealth. The appellant acknowledged receipt of the notice issued in December 2023. The appellant testified that she tried to resolve issues with MassHealth following the termination of coverage in December 2023. The appellant testified that she did not know about the appeal process upon receipt of the notice in December 2023 so did not appeal that decision. As noted above, the appellant filed an appeal on May 7, 2024.

The MassHealth representative noted that the appellant was eligible for MassHealth Standard in the past as the parent of a child under the age of 19. Also, at the beginning of the COVID-19 public health emergency (PHE), the federal government issued continuous coverage requirements for MassHealth. (MassHealth Eligibility Operations Memo 20-09; MassHealth Eligibility Operations Memo 23-13). Since March 2020, MassHealth put protections in place so that individuals receiving Medicaid would generally not lose their coverage unless they voluntarily withdrew, moved out of state, or passed away. (MassHealth Eligibility Operations Memo 20-09; MassHealth Eligibility Operations Memo 23-13). These continuous coverage requirements ended April 1, 2023.

(Eligibility Operations Memo 23-13). Therefore, as of April 2, 2023, MassHealth began to redetermine all members to ensure they still qualify for their current benefits. This agency action resulted in new eligibility decisions for the appellant.

Findings of Fact

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

1. In December 2023, MassHealth determined that the appellant was no longer eligible for MassHealth Standard as of December 28, 2023.
2. MassHealth determined that the appellant was eligible for the Health Safety Net as of December 4, 2024.
3. The appellant did not appeal that decision.
4. The appellant submitted a disability supplement to MassHealth.
5. In April 2024, the MassHealth Disability Evaluation Services (DES) determined that the appellant did not meet the requirements to be deemed disabled by MassHealth.
6. On April 22, 2024, MassHealth reviewed the appellant's eligibility and sent the appellant a request to verify her income.
7. On April 26, 2024, MassHealth received updated income information and deemed the appellant eligible for MassHealth CarePlus as of April 12, 2024.
8. The appellant is a family group of one with earnings of \$222.75 each week or a monthly income of \$965.17 [$\$222.75 \times 4.333 = \965.17].
9. Applying the regulatory disregard of 5 percentage points of the federal poverty level, the appellant has countable income of \$902.42 [$\$965.17 - \$62.75 = \902.42].
10. This places the appellant at 71.91% of the federal poverty level [$\$902.42 \div \$1,255 = 0.7191 \times 100 = 71.91\%$].

Analysis and Conclusions of Law

The regulations governing MassHealth specifically state that the Board of Hearings must receive a request for a fair hearing within 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. (130 CMR 610.015(B)). 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. (130 CMR 610.015(B)(1)). The appellant specifically admitted to receiving the notice issued on December 14, 2023 and not appealing that decision. The appellant did state that she did not know about the appeal process upon receipt of that notice.

Pursuant to 130 CMR 610.015(B)(2)(c), unless waived by the Director, an individual may have up to 120 days for the Board of Hearings to receive an appeal when MassHealth fails to send written notice of the action. Even if one could deem the notice issued in December 2023 as incomplete if it did not contain information about the appeal process, the deadline to file an appeal on any such action has also lapsed as the appellant did not file a request for hearing until May 2024. Additionally, the appellant did not provide clear testimony or evidence to demonstrate that the notice issued in December 2023 did not contain information about the appeal process only that she did not realize that she had the right to file an appeal at that time. The only notices for consideration in this appeal are those issued in April 2023.

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 appellant does not have any children under the age of 19 and has not been deemed disabled by MassHealth or the Social Security Administration. The only program that the appellant meets the categorical requirements for is MassHealth CarePlus.

MassHealth CarePlus provides coverage to adults 21 through 64 years of age. (13 CMR 505.008(A)(1)). Persons eligible for MassHealth CarePlus must meet the following conditions:

- (a) The individual is an adult 21 through 64 years of age.
- (b) The individual is a citizen, as described in 130 CMR 504.002: U.S. Citizens, or a qualified noncitizen, as described in 130 CMR 504.003(A)(1): Qualified Noncitizens.
- (c) The individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.
- (d) The individual is ineligible for MassHealth Standard.
- (e) The adult complies with 130 CMR 505.008(C).
- (f) The individual is not enrolled in or eligible for Medicare Parts A or B. (130 CMR 505.008(A)(2)).

The appellant meets the categorical and financial requirements to qualify for MassHealth CarePlus.

The date of coverage is determined by the coverage type for which the applicant may be eligible. (130 CMR 502.006). The coverage start date for existing members who are not pregnant or younger than 19 years of age, when an eligibility determination results in a more comprehensive benefit, the start date of the new coverage is ten days prior to:

- (a) the receipt of the requested verifications;
- (b) the receipt date of the annual renewal;
- (c) the date of the eligibility determination for reported changes that do not result in request for verification; or
- (d) the date of the MassHealth agency's eligibility determination due to information in the member's case file. (130 CMR 502.006(B)).

In this case, the decision on appeal resulted in a more comprehensive benefit as the appellant became eligible for CarePlus rather than just the Health Safet Net. MassHealth was correct in determining the appellant eligible for MassHealth CarePlus as of April 12, 2024 which was 10 days prior to the initial receipt of information on April 22, 2024.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290