

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407454
Decision Date:	7/19/2024	Hearing Date:	06/06/2024
Hearing Officer:	Thomas J. Goode	Record Open to:	6/14/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Amaryllis Garcia, Springfield 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:	Eligibility
Decision Date:	7/19/2024	Hearing Date:	06/06/2024
MassHealth's Rep.:	Amaryllis Garcia	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 19, 2024, MassHealth notified Appellant that his minor child was not MassHealth eligible due to income and is eligible for Children's Medical Security Plan (CMSP) starting on October 10, 2023 (130 CMR 505.001, 506.007 and Exhibit 1). Appellant filed this appeal in a timely manner on May 7, 2024 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant that his minor child was not MassHealth eligible due to income and is eligible for Children's Medical Security Plan (CMSP) starting on October 10, 2023.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.007, in determining that Appellant's minor child is not MassHealth eligible.

Summary of Evidence

The MassHealth representative testified that a notice issued on April 19, 2024 informing Appellant that his minor child was not MassHealth eligible due to income in excess of program limits and is eligible for Children's Medical Security Plan (CMSP) starting on October 10, 2023. MassHealth testified that Appellant's household was receiving MassHealth Family Assistance which terminated on December 31, 2023 because income increased from 325% to 635% of the federal poverty level. Appellant's household size is 4, and includes Appellant, his spouse and 2 children. No members of the household are disabled. Appellant and his spouse file taxes jointly and claim the 2 children as tax dependents. Appellant's verified earned household income is \$16,664.26 per month. The MassHealth representative testified that the income limit for Family Assistance for a household size of 4 is 300% of the federal poverty level which resulted in the termination of MassHealth coverage.

Appellant testified that MassHealth correctly calculated his income and household size. He added that his child started orthodontic treatment in September 2023, and CMSP will not continue to pay for the treatment. He added that if he had stated orthodontic coverage under a Health Connector Plan, 50% of the cost would have been covered. Appellant added that MassHealth should continue to pay for orthodontic treatment because the treatment has already been started.

The hearing record remained open to allow MassHealth to contact a dental liaison and provide information concerning continuity of care of orthodontic treatment through CMSP (Exhibit 4).

Findings of Fact

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

1. MassHealth issued notice on April 19, 2024 informing Appellant that his minor child was not MassHealth eligible due to income in excess of program limits and is eligible for Children's Medical Security Plan (CMSP) starting on October 10, 2023.
2. Appellant's household was receiving MassHealth Family Assistance which terminated on December 31, 2023 because income increased from 325% to 635% of the federal poverty level.
3. Appellant's household size is 4, and includes Appellant, his spouse and 2 children. No members of the household are disabled.
4. Appellant and his spouse file taxes jointly and claim the 2 children as tax dependents.
5. Appellant's verified earned household income is \$16,664.26 per month.

6. Relevant Federal Poverty Levels for a household of 4 are: 150%: \$3,900; 300%: \$7,800.

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 particular 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*.

(A) The MassHealth coverage types are the following:

- (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 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.

130 CMR 505.001(A).

To establish eligibility for MassHealth benefits, applicants must meet categorical and financial requirements. Appellant's minor child is not disabled, and lives in a household size of four for MassHealth eligibility purposes. Appellant's minor child is categorically eligible for MassHealth Standard; however, the modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 150% of the federal poverty level. 130 CMR 505.002(B)(2). Appellant's minor child was receiving Family Assistance which requires income below 300% of the federal poverty level, \$7,800.¹ See chart at [dg-fpl-0324.docx | Mass.gov](#) To determine financial eligibility

¹ See 130 CMR 505.005(B)(1) Eligibility Requirements. A child is eligible for Family Assistance 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

pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

(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 woman described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income as described in 130 CMR 506.003(B), less deductions described in 130 CMR 506.003(D). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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(C). Income of all the household members forms the basis for establishing an individual's eligibility. 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).

(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

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*.

coverage type. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. 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) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

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.”

Additionally, 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

See 130 CMR 506.003(D).

Here, total gross household income is \$16,664.26 per month. Pursuant to 130 CMR 506.007(A), 5 percentage points of the current FPL is deducted to determine countable income. See 130 CMR 506.007(A)(3). For a household of four, 5 percentage points of the applicable FPL (\$7,800) equals \$390 per month. Accordingly, Appellant’s \$16,664.26 countable income for eligibility purposes is reduced to \$16,274.26. Because Appellant’s income exceeds 300% of the federal poverty level, Appellant’s minor child is no longer financially eligible for Family Assistance or MassHealth benefits at this time.

For the foregoing reasons, MassHealth’s action is upheld, and the appeal is DENIED.²

² The matter on appeal is Appellant’s child’s MassHealth eligibility determined by notice dated April 19, 2024. Appellant’s issues involving continuity of care for orthodontic treatment with CMSP and other insurance carriers is not addressed here because MassHealth has not issued an appealable notice regarding continuity of care. The issue cannot be conflated with the eligibility determination made through the April 19, 2024 notice. However, it appears that Children’s Medical Security Plan (CMSP) prohibits coverage for orthodontic services: <https://www.mass.gov/info-details/services-covered-under-the-childrens-medical-security-plan>

Appellant can direct any question about the Health Connector to 1-877-623-6765 and can direct any question about the Health Safety Net to 877-910-2100.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

Further, MassHealth guidelines for continuity of care apply to MassHealth members switching to a new MassHealth health plan. The enrollment guide does not include CMSP:

https://www.mass.gov/info-details/continuity-of-care-coc?_gl=1*1dg7mbv*_ga*MTE3Mjl4NjU0Ni4xNzE3NDQxMjYx*_ga_MCLPEGW7WM*MTcyMTQwMzAwNi4yMS4wLjE3MjE0MDMwMDYuMC4wLjA.