

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407717
Decision Date:	07/9/2024	Hearing Date:	06/26/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearance for MassHealth:
Patricia Donovan, Quincy MEC

Interpreter:



*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
Decision Date:	07/9/2024	Hearing Date:	06/26/2024
MassHealth's Rep.:	Patricia Donovan	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 4, 2024, MassHealth determined that Appellant is no longer eligible for MassHealth Limited effective April 18, 2024 (130 CMR 504.000, 505.006 and Exhibit 1). Appellant filed this appeal in a timely manner on May 6, 2024 (130 CMR 610.015(B) and Exhibit 2). Termination of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that Appellant is no longer eligible for MassHealth Limited effective April 18, 2024.

Issue

The appeal issue is whether MassHealth correctly determined that Appellant is no longer eligible for MassHealth Limited coverage and is not otherwise MassHealth eligible.

Summary of Evidence

The MassHealth representative testified that Appellant was receiving MassHealth Limited coverage which terminated on April 18, 2024 because Appellant's income exceeds program limits and he is enrolled in employer-sponsored health insurance, and his immigration status changed. Appellant is over 21 years of age, and under 65 years of age. The MassHealth representative testified that Appellant is a household size of one non-disabled person with income equating to 150% of the federal poverty level when the determination was made. Appellant updated his income by submitting 2 additional paystubs which show \$551.25 and \$543.38 weekly income which equates to 190% of the federal poverty level (Exhibit 2). Appellant also updated his immigration status from undocumented to Qualified Non-Citizen as a [REDACTED]. Appellant was receiving MassHealth Limited coverage; however, because Appellant has employer-sponsored insurance, his immigration status changed, and his income exceeds program limits, Limited coverage ended. Appellant is eligible for the Health Safety Net with a deductible effective March 25, 2024 (Exhibit 1).

Appellant testified that he is employed and enrolled in Blue Cross employer-sponsored health insurance. He stated that when he went to his doctor, the Blue Cross coverage was not working. He added that his minor child may be moving in with him, and he will update MassHealth if that happens.

Findings of Fact

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

1. Appellant is a household size of one non-disabled person, over 21 years of age, and under 65 years of age.
2. Appellant updated his immigration status from undocumented to Qualified Non-Citizen as a [REDACTED].
3. Appellant is not receiving EAEDC.
4. Appellant updated his income by submitting 2 additional paystubs which show \$551.25 and \$543.38 weekly income, and gross monthly income of \$2,371.51.
5. 133% of the federal poverty level for a household of one person is \$1,670.
6. Appellant is enrolled in employer-sponsored insurance.
7. Appellant is eligible for the Health Safety Net with a deductible effective March 25, 2024.

Analysis and Conclusions of Law

Regulation 130 CMR 504.006 lists applicable coverage types based on immigration status:

(A) Citizens, **qualified noncitizens**, and protected noncitizens may receive MassHealth under any coverage type if they meet the eligibility requirements described in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(B) **Qualified noncitizens barred** and nonqualified individuals lawfully present may receive the following coverage.

(1) MassHealth Standard, if they are younger than 19 years old, young adults 19 and 20 years of age, or people who are pregnant and meet the categorical requirements and financial standards described in 130 CMR 505.002: *MassHealth Standard*; independent foster care children 18 through 20 years of age, and children younger than 19 years old and young adults age 19 and 20 years of age who are receiving EAEDC.

(2) MassHealth CommonHealth, if they are younger than 19 years old and meet the categorical requirements and financial standards as described in 130 CMR 505.004: *MassHealth CommonHealth*;

(3) MassHealth Family Assistance, if they are children younger than 19 years old, disabled adults 21 through 64 years of age and meet the categorical requirements and financial standards as described in 130 CMR 505.005: *MassHealth Family Assistance* or adults 21 through 64 years of age who are receiving EAEDC;

(4) MassHealth Limited, if they are adults 21 through 64 years of age and meet the categorical requirements and financial standards as described in 130 CMR 505.006: *MassHealth Limited*; and

(5) Children's Medical Security Plan, if they are children younger than 19 years old and meet the categorical requirements and financial standards as described in 130 CMR 522.004: *Children's Medical Security Plan (CMSP)*.

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).

Appellant's immigration status was updated from undocumented to Qualified Noncitizen or Qualified Noncitizen Barred.¹ As a Qualified Noncitizen, Appellant is not eligible for MassHealth Limited coverage.^{2,3} To establish eligibility for other MassHealth coverage types, applicants must

¹ MassHealth did not specify whether Appellant has had this status for 5 or more years as specified at 504.003(A)(2); therefore eligibility here is reviewed as Qualified Noncitizen and Qualified Noncitizen Barred.

² Pursuant to 130 CMR 505.006(B)(1), MassHealth Limited is available to the following:

- (a) other noncitizens as described in 130 CMR 504.003(D): *Other Noncitizens* who are
 - 1. children younger than one year old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 200% of the federal poverty level (FPL);
 - 2. children one through 18 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
 - 3. young adults 19 and 20 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
 - 4. adults 21 through 64 years old who are parents, caretakers, or adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL; and
 - 5. disabled adults 21 through 64 years old with modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;
- (b) nonqualified PRUCOLs as described in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)* who are
 - 1. children younger than one year old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 200% of the federal poverty level (FPL);
 - 2. children one through 18 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
 - 3. young adults 19 and 20 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
 - 4. adults 21 through 64 years old who are parents, caretakers, or adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to

meet categorical and financial requirements. Appellant is over 21 years of age and under 65 years of age, and lives in a household size of one non-disabled person. Thus, Appellant is not eligible for MassHealth Standard, or CommonHealth; however, he meets the categorical requirements for MassHealth CarePlus. An individual between the ages of 21 and 64 is eligible for MassHealth CarePlus if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.” 130 CMR 505.008(A)(2); [dg-fpl-0324.docx | Mass.gov](#). To determine financial eligibility 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

133% of the FPL; and

5. disabled adults 21 through 64 years old with modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;

(c) qualified noncitizens barred, as described in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, and nonqualified individuals lawfully present, as described in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present* who are

1. adults, including parents and caretaker relatives, 21 through 64 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL;

2. disabled adults 21 through 64 years old with modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;

3. parents and caretakers who are 21 through 64 years old who are receiving EAEDC; and

4. adults 21 through 64 years old who are receiving EAEDC.

(2) Nonqualified PRUCOLs eligible for MassHealth Limited in 130 CMR 505.006(B)(1)(b) and qualified noncitizens barred and nonqualified individuals lawfully present eligible for MassHealth Limited in 130 CMR 505.006(B)(1)(c) may also be eligible for MassHealth CommonHealth if they meet the categorical and financial requirements in 130 CMR 505.004 or MassHealth Family Assistance if they meet the categorical and financial requirements in 130 CMR 505.005.

(3) Persons eligible for MassHealth Limited coverage are eligible for medical benefits as described in 130 CMR 450.105(F): *MassHealth Limited*. These individuals are eligible for medical benefits under MassHealth Limited only to the extent that such benefits are not covered by their health insurance.

³ There is no preclusion to having employer-sponsored health insurance and MassHealth Limited. See 130 CMR 505.006(C) Use of Potential Health Insurance Benefits. All individuals who meet the requirements of 130 CMR 505.006 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. Members must access those other health insurance benefits and must show both their private health insurance card and their MassHealth card to providers at the time services are provided.

- (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.

Based on current MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level equates to a monthly income of \$1,670 for a household size of 1 person. See chart at [dg-fpl-0324.docx](#) | [Mass.gov](#)

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 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

130 CMR 506.003(D)

Appellant is a one-person, non-disabled household and has total gross monthly income of \$2,371.51.⁴ Pursuant to 130 CMR 506.007(A), 5 percentage points of the current FPL is deducted to determine countable income (130 CMR 506.007(A)(3)). For a household of one, 5 percentage points of the current FPL, \$1,670, equals \$83.50 a month. Accordingly, Appellant's countable income for eligibility purposes is \$2,288. Eligibility for MassHealth CarePlus as a Qualified Noncitizen requires income below 133% of the federal poverty level, or \$1,670 per month for a household of one adult (130 CMR 505.008). Because Appellant's income exceeds 133% of the federal poverty level, Appellant is not financially eligible for MassHealth CarePlus benefits (130 CMR 505.008(A)(2)(c)). As a Qualified Noncitizen Barred, the only MassHealth coverage available to Appellant as an adult between 21 and 64 years of age, one-person, non-disabled household is MassHealth Limited which requires income below 133% for a non-disabled adult between 21 and 64 years of age.⁵

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

Appellant can direct any questions 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

⁴ Verified weekly income is $\$551.25 + \$543.38 = \$1094.63/2 = \$547.31 \times 4.333 = \$2,371.51$. 130 CMR 506.007(A)(2)(c).

⁵ See 130 CMR 505.006(B)(1)(c)(1) and fn. 2.

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