

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407767
Decision Date:	7/24/2024	Hearing Date:	06/20/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Fabienne Jeanniton, Tewksbury 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:	7/24/2024	Hearing Date:	06/20/2024
MassHealth's Rep.:	Fabienne Jeanniton	Appellant's Rep.:	Pro se
Hearing Location:	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

Through a notice dated May 14, 2024, MassHealth informed Appellant that MassHealth coverage would terminate on May 28, 2024 because it determined that Appellant's income exceeds MassHealth program limits (130 CMR 505.001, 506.003; 130 CMR 506.007 and Exhibit 1). Appellant's appeal was timely filed on May 14, 2024, and Appellant's coverage has been continued during the appeal process (130 CMR 610.015(B), 610.036, and Exhibit 2). Termination of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth informed Appellant that MassHealth coverage would terminate on May 28, 2024 because it determined that Appellant's income exceeds MassHealth program limits.

Issue

The appeal issue is whether MassHealth correctly calculated Appellant's income in determining that she is no longer eligible for MassHealth benefits.

Summary of Evidence

The MassHealth representative testified that Appellant is an adult between [REDACTED] who lives in a non-disabled, three-person household with her two adult children, [REDACTED] both of whom she claims as tax dependents. Appellant's verified annual income is \$92,000 in addition to income attributed to her adult children which includes \$300 bi-weekly and \$660 weekly. In September 2023, Appellant reported only her daughter's income which equated to 48.51% of the federal poverty level. Appellant was receiving MassHealth Standard as an individual with breast cancer which requires income below 250% of the federal poverty level for a household of 3 which is \$5,380 per month, and \$64,560 annually. Appellant's household income equates to 417% of the federal poverty level for a household size of 3. The MassHealth representative added that on January 4, 2024, Disability Evaluation Services determined that Appellant does not meet disability criteria which precludes CommonHealth coverage.

Appellant verified that her household size is 3 and testified that in [REDACTED] she was unemployed and had been diagnosed with breast cancer. MassHealth determined she was eligible for MassHealth Standard coverage because only her daughter had income at that time. Appellant testified that she started working on January 16, 2024 and reported the change in income to MassHealth, which is correctly verified. Appellant testified that she submitted a disability supplement to MassHealth but was not aware that the supplement had been denied in [REDACTED]

Findings of Fact

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

1. Appellant is an adult between [REDACTED] who lives in a non-disabled, three-person household with her two adult children, [REDACTED] both of whom she claims as tax dependents.
2. Appellant was receiving MassHealth Standard as an individual with breast cancer.
3. In September 2023, Appellant reported only her daughter's income which equated to 48.51% of the federal poverty level.
4. Appellant started working on January 16, 2024.
5. Appellant's verified annual income is \$92,000.
6. 250% of the federal poverty level for a household of 3 is \$5,380 per month, and \$64,560

annually.

7. On [REDACTED] Disability Evaluation Services determined that Appellant does not meet disability criteria.

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 [REDACTED] 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 was determined categorically eligible for MassHealth Standard as an individual with breast cancer; however, the modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 250% of the federal poverty level, \$5,380 for a household of 3 (130 CMR 505.002(F)).¹ See chart at [dg-fpl-0324.docx | Mass.gov](#) To determine

¹ 130 CMR 505.002(F) *Individuals with Breast or Cervical Cancer*:

(1) Eligibility Requirements. An individual with breast or cervical cancer is eligible for MassHealth Standard coverage if they meet all of the following requirements:

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

- (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

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- (a) the individual is younger than [REDACTED]
 - (b) the individual has been certified by a physician to be in need of treatment for breast or cervical cancer, including precancerous conditions;
 - (c) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 250% of the federal poverty level (FPL);
 - (d) for individuals with breast or cervical cancer whose MassHealth MAGI household modified adjusted gross income is greater than 133% of the FPL, but does not exceed 250% of the FPL, the individual must
 - 1. be uninsured; or
 - 2. have insurance that does not provide creditable coverage. An individual is not considered to have creditable coverage when the individual is in a period of exclusion for treatment of breast or cervical cancer, has exhausted the lifetime limit on all benefits under the plan, including treatment of breast or cervical cancer, or has limited scope coverage or coverage only for specified illness; or
 - 3. be an American Indian or Alaska Native who is provided care through a medical care program of the Indian Health Service or of a tribal organization;
 - (e) 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*; and
 - (f) the individual does not otherwise meet the requirements for MassHealth Standard described at 130 CMR 505.002(B) through (E).

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

See 130 CMR 506.003(D).

Here, Appellant’s income alone is \$92,000 annually/\$7,666 monthly. 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 3, 5 percentage points of the applicable FPL (\$5,380) equals \$269 per month. Accordingly, Appellant's \$7,666 monthly income for eligibility purposes is reduced to \$7,397. Because Appellant's income exceeds 250% of the federal poverty level, Appellant is no longer eligible for MassHealth Standard, and the appeal must be DENIED.

Appellant can contact Disability Evaluation Services at 1-888-497-9890 to inquire about the status of her disability application.

Order for MassHealth

None, other than rescind 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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Thomas J. Goode
Hearing Officer
Board of Hearings

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