

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2408406
Decision Date:	09/06/2024	Hearing Date:	08/06/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:




Appearance for MassHealth:

Elizabeth Nickoson, Taunton MassHealth
Enrollment Center



*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:	Under 65; Eligibility; Income; Medically Frail
Decision Date:	09/06/2024	Hearing Date:	08/06/2024
MassHealth's Rep.:	Elizabeth Nickoson	Appellant's Rep.:	
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 5, 2024, MassHealth approved the appellant for MassHealth CommonHealth benefits with no monthly premium. *See* 130 CMR 505.004 and Exhibit 1. The appellant filed this appeal in a timely manner on May 26, 2024, arguing that he should be approved for MassHealth Standard and the Medicare Savings Plan. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging agency action regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth approved the appellant for MassHealth CommonHealth benefits.

Issue

The appeal issue is whether MassHealth correctly determined that category of benefits for which the appellant is eligible to receive.

Summary of Evidence

The appellant is an adult MassHealth member under the age of 65 who resides in a household of two with his wife. MassHealth was represented at the hearing by a worker from the Taunton MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the evidence and testimony provided at the hearing:

The MassHealth representative reported that the appellant has received MassHealth CommonHealth benefits since 2017, which is supported by the appellant's MMIS screen. See Exhibit 4. The notice at issue generated after the appellant submitted a renewal application on or around April 5, 2024. MassHealth was able to verify that the appellant receives \$1415.00 per month in gross social security benefits, while his wife receives \$1129.00. The total household income was therefore calculated to be \$2544.00 per month, which, according to the MassHealth representative, is 144.35% of the federal poverty level for a household of two.

The appellant agreed with the calculation, but reported that, in submitting this application, he consulted with a SHINE counselor. That individual informed the appellant that he should qualify for MassHealth Standard as a medically frail individual regardless of his income. He therefore asked to be placed on MassHealth Standard because he is medically frail.¹

Findings of Fact

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

1. The appellant is an adult under the age of 65 who resides in a household of two. Testimony, Exhibit 4.
2. The appellant has been receiving MassHealth CommonHealth benefits since 2017. Testimony, Exhibit 4.
3. Shortly prior to April 5, 2024, the appellant submitted a renewal application for his benefits. Testimony. On that day, MassHealth approved him for MassHealth CommonHealth without a monthly premium. Exhibit 1.
4. The appellant filed a timely request for fair hearing on May 26, 2024. Exhibit 2.
5. The appellant and his spouse receive a combined total of \$2544.00 in monthly gross social

¹ The appellant also reported that he was, at one time, on MassHealth Standard, and was removed without his notice. The appellant's MMIS screen indicates that the appellant received MassHealth Standard (Aid Categories 42 and R1) for several months between 2016 and 2017, however, he has very clearly received MassHealth CommonHealth as either aid Category 52 or 53 since June of 2017. See Exhibit 4.

security benefits. Testimony.

6. The appellant reports that he is medically frail. Testimony.

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 for individuals who are under the age of 65. 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) *Standard* - for pregnant women, 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) *CommonHealth* - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) *CarePlus* - for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) *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) *Small Business Employee Premium Assistance* - for adults or young adults who
 - (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
 - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
 - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) *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
- (7) *Senior Buy-In and Buy-In* - for certain Medicare beneficiaries.

130 CMR 505.001(A) (emphasis added). To be considered medically frail or a person with special medical needs, the individual must be:

- (1) an individual with a disabling mental disorder (including children with serious emotional disturbances and adults with serious mental illness);
 - (2) an individual with a chronic substance use disorder;
 - (3) an individual with a serious and complex medical condition;
 - (4) an individual with a physical, intellectual, or developmental disability that significantly impairs their ability to perform one or more activities of daily living;
- or
- (5) an individual with a disability determination based on Social Security criteria.

130 CMR 505.008(F). Such individuals, who otherwise qualify for MassHealth CarePlus, may elect to instead receive MassHealth Standard benefits. *Id.* Generally, to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. In this case, the appellant is over the age of 21 but under 65, is not a caretaker of a child, but reports that he is medically frail. Medically frail individuals are eligible for MassHealth Standard if they meet each of the following requirements:

- (1) is younger than 65 years old;
- (2) is medically frail as defined at 130 CMR 505.008(F);
- (3) has modified adjusted gross income of the MassHealth MAGI household of less than or equal to 133% of the federal poverty level;
- (4) is a citizen as described at 130 CMR 504.002: U.S. Citizens or qualified noncitizen as described at 130 CMR 504.003(A)(1): Qualified Noncitizens; and
- (5) has been determined to meet the eligibility criteria for MassHealth CarePlus and has elected to receive MassHealth Standard benefits.

130 CMR 505.002(J). Thus, as the appellant reports that he is medically frail (which is supported by his eligibility for MassHealth CommonHealth since 2017), he categorically qualifies for MassHealth Standard if he meets the eligibility criteria for MassHealth CarePlus. To establish such eligibility, an individual must meet the following conditions:

- (a) The individual is an adult 21 through 64 years old.
- (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). To summarize as it relates to the facts specific to this case: the

appellant may demonstrate that he is eligible for MassHealth Standard as a medically frail individual if he meets the income requirements for MassHealth CarePlus.

An individual between the ages of 21 and 64 who does not qualify for MassHealth Standard 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). 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
 - (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.

Here, the appellant does not challenge that he resides in a household of two. Based on 2024 MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level equates to a monthly income of \$2266.00 for a household of that size. See *chart* at <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

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 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.

Per 130 CMR 506.003(B), countable unearned income includes “social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income...”

In this case, MassHealth determined, and the appellant agreed, that the appellant and his wife receive \$2544.00 in monthly total gross social security benefits. As that amount exceeds 133% of the federal poverty level based on the income standards for 2024, the appellant is not eligible for MassHealth CarePlus or MassHealth Standard benefits despite being medically frail. The regulations clearly require an individual’s income to be taken into consideration in determining whether a medically frail individual may qualify for MassHealth Standard. Therefore, I find that MassHealth did not err in issuing the April 5, 2024, notice approving the appellant for MassHealth CommonHealth benefits, but not MassHealth Standard.

For the foregoing reasons, the appeal is hereby 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.

Mariah Burns
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center