

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2408450
<b>Decision Date:</b>	07/02/2024	<b>Hearing Date:</b>	07/01/2024
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**  
Nicole Veras – Tewksbury HCR



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community; Under-65; Income; Immigration
<b>Decision Date:</b>	07/02/2024	<b>Hearing Date:</b>	07/01/2024
<b>MassHealth's Rep.:</b>	Nicole Veras	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Virtual	<b>Aid Pending:</b>	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 May 20, 2024, MassHealth denied the appellant's application for MassHealth benefits because her income was too high. (Exhibit 1; 130 CMR 506.007; 502.003.) The appellant filed this appeal in a timely manner on May 26, 2024. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth denied the appellant's application for benefits because her income is higher than program limits allow.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.006 and 506.000, in determining that the appellant's income is too high to qualify for any benefits for which she might be eligible.

## Summary of Evidence

The appellant is an undocumented immigrant who filed an application for MassHealth benefits on May 2, 2024. On May 6, MassHealth requested income verification, and the appellant provided her 2023 tax return to verify her income. MassHealth determined that the appellant's annual Modified Adjusted Gross Income ("MAGI") was \$58,420 per year. This is over 380% of the federal poverty level for an individual. MassHealth's representative testified that, based upon the appellant's immigration status, she would only be eligible for MassHealth Limited coverage, and the income threshold for that benefit is 133% of the federal poverty level. The federal poverty level for an individual in 2024 is \$1,255 per month.

The appellant testified that the gross numbers MassHealth used are correct, but she only really takes home about \$750 per week. She testified that this is barely enough to make ends meet, and she cannot afford to purchase insurance on her own. The appellant had a mammogram come back with troubling findings and requires follow-up care. The appellant had been covered by a partial-Health Safety Net benefit, but because her income was over 300% of the federal poverty level, she was also found ineligible for that.

## Findings of Fact

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

- 1) The appellant has a household of one and she does not have an immigration status. (Testimony by the MassHealth representative.)
- 2) The appellant verified her income using her 2023 tax return, which reported \$58,420 in adjusted gross income. (Testimony by MassHealth's representative.)
- 3) The appellant did not identify any legal basis for residing in the country. (Testimony by the appellant.)

## Analysis and Conclusions of Law

MassHealth offers a variety of coverage types based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. A preliminary step in determining an individual's eligibility for MassHealth coverage, is determining their immigration status. MassHealth categorizes individuals as: "Lawfully Present"; "Protected Noncitizens ... who were receiving medical assistance or CommonHealth on June 30, 1997"; "Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)," who are individuals that have a case being tracked by the Department of Homeland Security, such as noncitizens granted Deferred Action for Childhood Arrivals; and "Other Noncitizens." (130 CMR 504.003.)

The appellant's only immigration category is as an "Other Noncitizen."

(D) Other noncitizens may receive the following coverage:

(1) MassHealth Standard, if they are pregnant and meet the categorical requirements and financial standards as described in 130 CMR 505.002: *MassHealth Standard*;

(2) MassHealth Limited, if they meet the categorical requirements and financial standards as described in 130 CMR 505.006: *MassHealth Limited*; and

(3) 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 Limited is available for "adults 21 through 64 years old who are ... adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL ... ." (130 CMR 505.006(B)(1)(a)4.) There is a category of MassHealth Standard for "Individuals with Breast or Cervical Cancer," but this coverage is only available if the applicant is "a citizen ... a qualified noncitizen ... ." (130 CMR 505.002(F)(1)(e).) Further, the income threshold for that benefit is 250% of the federal poverty level. (130 CMR 505.002(F)(1)(c).)

MAGI household income includes

(1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.

(2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.

(130 CMR 506.003(A)(1)-(2).)

Monthly income is derived by multiplying average weekly income by 4.333, and "[f]ive 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." (130 CMR 506.007(A).)

The appellant does not dispute her immigration status or that her countable MAGI income is well above 133% of the federal poverty level. Because the appellant's income is over 133% of the

federal poverty level, and she is an “Other Noncitizen,” MassHealth was correct that she is ineligible for any coverage. This appeal is DENIED.<sup>1</sup>

## **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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

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

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<sup>1</sup> The appellant is also ineligible for the Health Safety Net for Low Income Patients based upon her income in excess of 300% of the federal poverty level. (See 101 CMR 613.04(6).) If the appellant’s medical expenses exceed 20% of her income, she may qualify for the Health Safety Net through a “Medical Hardship.” (101 CMR 613.05(1)(c).) Additional information regarding this should be sought from Health Safety Net.