

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411002
Decision Date:	08/23/2024	Hearing Date:	08/22/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearance for MassHealth:

Marcus Levine, Charlestown 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	08/23/2024	<b>Hearing Date:</b>	08/22/2024
<b>MassHealth's Rep.:</b>	Marcus Levine	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 July 4, 2024, MassHealth notified Appellant that her MassHealth coverage had been downgraded to CommonHealth effective June 24, 2024 (130 CMR 505.001 and Exhibit 1). Appellant filed this appeal in a timely manner on July 15, 2024, and has been receiving continuous coverage pending the outcome of the appeal (130 CMR 610.015(B), 610.036 and Exhibit 2). A downgrade in assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

Through a notice dated July 4, 2024, MassHealth notified Appellant that her MassHealth coverage had been downgraded to CommonHealth effective June 24, 2024.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.007 in downgrading Appellant's coverage to CommonHealth.

## Summary of Evidence

Appellant was receiving MassHealth Standard coverage in 2023. In March 2024, Appellant was renewed on Standard coverage with no changes documented in the MassHealth system. In July 2024, an electronic match through the Social Security Administration verified that Appellant's income exceeded the limit for MassHealth Standard, and coverage was downgraded to CommonHealth. The change in income was due to a cost-of-living increase (COLA) in Social Security in January 2024. Appellant is a disabled household of 1 person under 65 years of age, with Social Security income totaling \$1,750 per month, which, after deducting the regulatory 5 percentage points, equates to 134.44% of the federal poverty level. Because income exceeds the \$1,670 limit for MassHealth Standard, coverage was downgraded to CommonHealth without a premium.

Appellant verified household size and income. Appellant objected to the continuation of benefits during the appeal process because she does not want to be subjected to recoupment of co-payments. Appellant stated that CommonHealth does not cover co-payments and because she is taking 11 medications and has many medical appointments related to her disability, she cannot afford co-payments. Appellant verified that her Social Security income is \$1,756 per month.

## Findings of Fact

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

1. Appellant was receiving MassHealth Standard coverage in 2023. In March 2024, Appellant was renewed on Standard coverage with no changes documented in the MassHealth system.
2. In January 2024, Appellant's Social Security income increased to \$1,756 due to a COLA increase.
3. In July 2024, an electronic match through the Social Security Administration verified that Appellant's income exceeded the limit for MassHealth Standard, and coverage was downgraded to CommonHealth.
4. Appellant is a disabled household of 1 person under 65 years of age, with Social Security income totaling \$1,756 per month, which equates to 139% of the federal poverty level.
5. The income limit for MassHealth Standard for a household size of 1 person is 133% of the federal poverty level, \$1,670 per month.
6. 100% of the federal poverty level for a household of 1 is \$1,255 per month.

## Analysis and Conclusions of Law

MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits. (130 CMR 501.003(A)). MassHealth offers several coverage types. (130 CMR 501.003(B)). The coverage type for which an individual is eligible is based on their income and circumstances. (130 CMR 515.003(B)).

Regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- (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 (DMH) 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, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): Lawfully Present Immigrants, 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

As a disabled adult, Appellant meets the categorical requirements for both MassHealth Standard and MassHealth CommonHealth. (130 CMR 505.001). However, both programs also have financial standards. (130 CMR 505.001).

The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. (130 CMR 505.001).

Pursuant to 130 CMR 506.002(A), MassHealth determines household size at the individual member level. MassHealth determines household composition through the Modified Adjusted Gross Income (MAGI) composition rules and the MassHealth Disabled Household composition rules. (130 CMR 506.002(A)). Information presented by Appellant regarding the receipt of

disability benefits from the Social Security Administration shows that Appellant is a disabled adult. Therefore, her eligibility is determined through the MassHealth Disabled Household composition rules which state that the household consists of:

- (1) the individual;
- (2) the individual's spouse if living with him or her;
- (3) the individual's natural, adopted, and stepchildren younger than 19 years old if living with him or her; and
- (4) if any woman described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children. (130 CMR 506.002(C)).

Based on testimony and evidence presented at hearing, Appellant's household consists of herself alone. (130 CMR 506.002(B)(3)).

Pursuant to 130 CMR 506.003, countable household 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(D) (130 CMR 506.003). Appellant has only unearned income from the Social Security Administration. (130 CMR 506.003(B)).

MassHealth allows the following deductions from countable income when determining MAGI:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses;
- (5) self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse;
- (9) individual retirement account (IRA);
- (10) student loan interest; and
- (11) higher education tuition and fees. (130 CMR 506.003(D)).

Appellant did not present evidence of any of these deductions for MassHealth to consider. (130 CMR 506.003(D)).

To calculate financial eligibility for an individual, MassHealth will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. (130 CMR 506.007). Different households may exist within a single family, dependent on the family members' familial and tax relationships to each other (130 CMR 506.007). As stated above, Appellant's household meets the definition of a MassHealth Disabled Adult Household

(130 CMR 506.002). The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to MassHealth Disabled Adult households (130 CMR 506.007). 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(D) (130 CMR 506.007). Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007). In this case, the income from Appellant alone forms the basis for establishing eligibility for MassHealth.

In determining monthly income, MassHealth averages weekly income by 4.333 (130 CMR 506.007(A)). 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 (130 CMR 506.007(A)). Appellant's countable income of \$1,756 places Appellant at 134.92% of the federal poverty level after deducting the 5 percentage points [ $\$1,756 - \$62.75 = \$1,693.25$ ] [ $\$1,693.25 \div \$1,255 = 134.92\%$ ].<sup>1</sup> MassHealth correctly calculated Appellant's household income in determining eligibility (130 CMR 506.007(A)). Appellant's countable income exceeds 133% of the federal poverty level for a family group of one [ $\$1,670$ ] making Appellant ineligible for MassHealth Standard (130 CMR 505.002(E)(1)(b)). Further, applicants and members whose income increases each January as the result of a cost-of-living adjustment (COLA) will have their eligibility determined using their social security income just before the COLA, if such income can be verified, until the subsequent federal poverty level adjustment (130 CMR 506.008). Here, Appellant's coverage type was changed in July 2024 based on the January 2024 COLA increase, and the new 2024 federal poverty level guidelines published in March 2024. The decision made by MassHealth regarding eligibility for MassHealth Standard was correct.

Under the published regulations at 130 CMR 505.004, to qualify for MassHealth CommonHealth, a disabled adult must meet certain requirements. If the disabled adult is working, he or she must meet the following requirements:

- (1) be aged 21 through 64 (For those aged 65 and older, see 130 CMR 519.012.);
- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the MBR or MassHealth's eligibility review;
- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001;
- (4) be 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;
- (5) be ineligible for MassHealth Standard; and

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<sup>1</sup> The calculation is consistent with the July 4, 2024 notice (Exhibit 1). MassHealth initially testified that Appellant's Social Security income was \$1,750. Appellant testified to \$1,756 Social Security income. Using either figure, the income is over 133% of the federal poverty level.

(6) comply with 130 CMR 505.004(J).

Under the published regulations at 130 CMR 505.004, if the disabled adult is not working, he or she must meet the following requirements to qualify for MassHealth CommonHealth:

- (1) be aged 21 through 64;
- (2) be permanently and totally disabled, as defined in 130 CMR 501.001;
- (3) be ineligible for MassHealth Standard;
- (4) be 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;
- (5)
  - (a) meet a one-time-only deductible in accordance with 130 CMR 506.009; or
  - (b) have modified adjusted gross income of the MassHealth Disabled Adult Household that is less than or equal to 200 percent of the federal poverty level and provide verification that they are HIV positive; and

(6) comply with 130 CMR 505.004(J).

In December 2023, to streamline eligibility and remove additional barriers to qualify for MassHealth, MassHealth updated their system to allow adult MassHealth members with disabilities, who have an income above 150% of the FPL and are 19–20 years old, or who have an income above 133% of the FPL and are 21–64 years old, to be eligible to receive MassHealth CommonHealth benefits without having to meet a one-time deductible or be employed at least 40 hours per month (MassHealth Eligibility Operations Memo (EOM) 23-28). At the time of the eligibility decision on appeal, Appellant did not have to meet a deductible or show evidence of employment to qualify for MassHealth CommonHealth (130 CMR 505.004; MassHealth EOM 23-28). Because Appellant’s income is below 150% of the federal poverty level, MassHealth did not assess a premium (130 CMR 506.011). The decision made by MassHealth regarding Appellant’s eligibility for CommonHealth was correct.

Pursuant to 130 CMR 610.036(A), Appellant has been receiving continued benefits during the appeals process which is potentially subject to recoupment under 130 CMR 610.036(D). The Board of Hearings implemented aid pending based on Appellant’s Fair Hearing Request which records the requested receipt of MassHealth during the appeal, and states “Member does not want COM (CommonHealth) Member would like her old coverage effective which was STD (Standard). There is no indication that Appellant did not want the continuation of benefits pending the outcome of the appeal (See Exhibit 2).

The appeal is DENIED.

## **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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129