

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2411068
<b>Decision Date:</b>	10/8/2024	<b>Hearing Date:</b>	08/20/2024
<b>Hearing Officer:</b>	Emily Sabo		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Jasmine Gomez, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Eligibility--under 65
<b>Decision Date:</b>	10/8/2024	<b>Hearing Date:</b>	08/20/2024
<b>MassHealth's Rep.:</b>	Jasmine Gomez	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center (Telephone)	<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 3, 2024, MassHealth downgraded the Appellant's benefits from CarePlus to Health Safety Net, because MassHealth determined that the Appellant's income is too high. See 130 CMR 505.008(A)(2)(c) and Exhibit 1. The Appellant filed this appeal in a timely manner on July 15, 2023. 130 CMR 610.015(B) and Exhibit 2. Termination of assistance is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth downgraded the Appellant's MassHealth benefits on the grounds that his income is too high.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.008(A)(2)(c), in downgrading the Appellant's MassHealth coverage based on his income.

## Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is an adult under the age of 65 and has a household size of one. The MassHealth representative testified that the Appellant's income is \$2,100 based on Social Security income. The MassHealth representative testified that for the Appellant to be financially eligible for MassHealth CarePlus as a household of one, his monthly income would need to be \$1,670 or less (equivalent to 133% of the federal poverty level). The MassHealth representative testified that the Appellant had indicated that he had a disability and that on July 22, 2024, MassHealth mailed the Appellant a notice that his disability supplement was incomplete.

The Appellant verified his identity. The Appellant testified that he completed the incomplete sections of his disability supplement and MassHealth received his updated supplement on August 12, 2024. The Appellant testified that he had contacted MassHealth a number of times to attempt to get documents and records relating to his case history, spending three hours on the phone, without success. The Appellant testified that he is under the care of eight medical providers, and that his health coverage is a life-or-death matter. The Appellant testified that his gross income is \$2,100/month, but the majority goes toward his \$1,500/month rent and he has no discretionary income. The Appellant testified that the remainder of his income goes toward his food and transportation, and that he does not have a car. The Appellant testified that he cannot afford a Health Connector plan. The Appellant stated that he could live in a shelter and use his income toward his medical expenses but had concerns about being able to safely treat his medical conditions in that environment. The Appellant testified that he has medical conditions that will continue for the rest of his life—he is a Type 1 diabetic and requires up to ten injections per day. He testified that he has complex care needs that require supervision and monitoring by his cardiologist and endocrinologist. He testified that his kidneys have 50% loss of function. The Appellant testified that he has been hospitalized many times and that he also suffers from severe neuropathy of feet, an inflamed Achilles, and severe depression. The Appellant cited two court cases in which diabetes was found to be a disability.

## 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 and has a household size of one. Testimony, Exhibit 4.
2. The Appellant has a monthly income of \$2,100, based on Social Security income. Testimony.
3. On July 3, 2024, MassHealth notified the Appellant that his benefits would be downgraded from CarePlus to Health Safety Net based on his income. Exhibit 1.

4. On July 15, 2024, the Appellant timely appealed the July 3, 2024 notice to the Board of Hearings. Exhibit 2.

## **Analysis and Conclusions of Law**

As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant with the most comprehensive benefit for which they are eligible. 130 CMR 501.003(A). The MassHealth coverage types are listed as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,<sup>1</sup> 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 ....
- (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).

To establish eligibility for MassHealth, applicants must meet both the categorical and financial requirements. To calculate financial eligibility, MassHealth regulations at 130 CMR 506.007 provide that:

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<sup>1</sup> “Young adults” is defined at 130 CMR 501.001 as those aged 19 and 20.

(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.

(1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) 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(M).

(b) 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).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) 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) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.

(2) Round these annual figures up to the nearest hundredth.

(3) Divide by 12 to arrive at the monthly income standards.

130 CMR 506.007.

Here, to be eligible for MassHealth CarePlus, an individual's modified adjusted gross income must be less than or equal to 133% of the federal poverty level. 130 CMR 505.008(A)(2)(c). The Appellant did not dispute that his gross monthly income is \$2,100, which is 162% of the federal poverty level. This exceeds 133% of the federal poverty level. 130 CMR 505.008(A)(2)(c). As such, the Appellant does not meet the financial requirements to qualify for MassHealth CarePlus. Therefore, MassHealth did not err in issuing the July 3, 2024 notice, and the appeal is denied.

I am sympathetic to the gravity of the Appellant's situation and credit his concerns regarding his health and housing instability. The issue of whether the Appellant has a disability is not an appealed issue before me.<sup>2</sup> The Appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100. The Appellant can request his MassHealth record via: <https://masseohhs.hylandcloud.com/203AppNet/UnityForm.aspx?key=UFKey>.

## Order for MassHealth

None.

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<sup>2</sup> If the Appellant receives a notice from MassHealth regarding his disability and eligibility for MassHealth CommonHealth, that notice should contain instructions on how to file an appeal with the Board of Hearings. The Appellant may also be interested in applying for coverage under 130 CMR 519.007(B):

519.007: Individuals Who Would Be Institutionalized

130 CMR 519.007 describes the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home- and community-based services.

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(B) Home- and Community-based Services Waiver—Frail Elder.

(1) Clinical and Age Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing-facility services to receive certain waiver services at home if they (a) are 60 years of age or older and, if younger than 65 years old, is permanently and totally disabled in accordance with Title XVI standards; and (b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home-and Community-Based Services Waiver-Frail Elder authorized under section 1915(c) of the Social Security Act.

(2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of their marital status. The applicant or member must (a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b); (b) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual; and (c) have countable assets of \$2,000 for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets When One Spouse Is Institutionalized; and (d) have not transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of the Transfer Date and 520.019: Transfer of Resources Occurring on or After August 11, 1993.

(3) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(B)(2) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: Asset Reduction, by meeting a deductible as described at 130 CMR 520.028: Eligibility for a Deductible through 520.035: Conclusion of the Deductible Process, or by both.

## 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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Emily Sabo  
Hearing Officer  
Board of Hearings

cc:

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