

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411282
Decision Date:	9/23/2024	Hearing Date:	8/19/2024
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Jessica Ramirez, Tewksbury MEC

Interpreter:

N/A



*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 under 65, Income
Decision Date:	9/23/2024	Hearing Date:	8/19/2024
MassHealth's Rep.:	Jessica Ramirez	Appellant's Rep.:	
Hearing Location:	Remote (Tel)	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 June 21, 2024, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that the Appellant's income was too high. (Exhibit. 1). The Appellant filed this appeal in a timely manner on July 22, 2024. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the Appellant is not eligible for MassHealth because the Appellant's income is higher than MassHealth Regulations allow for MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over income to qualify for MassHealth benefits.

Summary of Evidence

MassHealth testified that the Appellant is an adult under the age [REDACTED] who lives in a household of one. (Testimony) There is no disability attributed to the Appellant. MassHealth testified that the Appellant's income totaled \$3,796.97 gross per month, exceeding the limit for MassHealth CarePlus, based upon prior submissions. (Testimony) MassHealth testified that it calculated the Appellant's income from her employer based upon a weekly average derived through pay stubs submitted to MassHealth by the Appellant. (Exhibit 6) MassHealth's average of the Appellant's income from her employer was calculated at \$321.71/week. (Testimony, Exhibit 6, pgs. 5-8) Additionally, MassHealth testified that the Appellant receives \$2,376.60/month from Social Security. (Exhibit 6, pg. 3) MassHealth stated that based on income and the Federal Poverty Level (FPL), the Appellant was eligible for a ConnectorCare plan through the Health Connector.

The Appellant contested the weekly average MassHealth obtained from the submitted paystubs. (Testimony, Exhibit 6, pgs. 5-8) The Appellant explained that her weekly hours fluctuate. (Testimony, Exhibit 2, pg. 2). MassHealth explained the process for calculating a weekly average and how MassHealth arrived at \$321.71/week from the Appellant's employer based upon an average of 4 paystubs submitted by the Appellant. (Testimony, Exhibit 6, pgs. 5-8). The Appellant confirmed that the monthly amount received from Social Security, \$2,376.60/month was accurate. (Testimony, Exhibit 6, pg. 3) The Appellant additionally stated that MassHealth should utilize net income instead of gross income. (Testimony, Exhibit 2, pg. 2) The Appellant explained that she cannot afford to pay for a ConnectorCare plan. (Testimony)

Based upon the submissions of the Appellant, for the week of June 16, 2024 – June 22, 2024, the Appellant received \$192.05 gross pay from her employer. (Exhibit 6, pg. 5) Based upon the submissions of the Appellant, for the week of June 23, 2024 – June 29, 2024, the Appellant received \$235.21 gross pay from her employer. (Exhibit 6, pg. 8) Based upon the submissions of the Appellant, for the week of July 7, 2024 – July 13, 2024¹, the Appellant received \$416.72 gross pay from her employer. (Exhibit 6, pg. 7) Based upon the submissions of the Appellant, for the week of July 14, 2024 – July 20, 2024, the Appellant received \$110.63 gross pay from her employer. (Exhibit 6, pg. 6) Based upon the submissions of the Appellant, as of December 2023, the Appellant's Social Security benefit is \$2,376.60/month. (Exhibit 6, pg. 3)

Findings of Fact

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

1. Appellant is an adult, under the age of [REDACTED] has no disability attributed, and lives in a household of one. (Testimony).

¹ No pay stub for the week of June 30 – July 6 was submitted into this Administrative Record.

2. The Appellant's income from her employer fluctuates each week.
3. For the week of June 16, 2024 – June 22, 2024, the Appellant received \$192.05 gross pay from her employer. (Exhibit 6, pg. 5)
4. For the week of June 23, 2024 – June 29, 2024, the Appellant received \$235.21 gross pay from her employer. (Exhibit 6, pg. 8)
5. For the week of July 7, 2024 – July 13, 2024, the Appellant received \$416.72 gross pay from her employer. (Exhibit 6, pg. 7)
6. For the week of July 14, 2024 – July 20, 2024, the Appellant received \$110.63 gross pay from her employer. (Exhibit 6, pg. 6)
7. As of December 2023, the Appellant's Social Security benefit is \$2,376.60/month. (Exhibit 6, pg. 3)
8. 133% of the federal poverty level is \$1,677.00 a month for a household of one . (2024 MassHealth Income Standards and Federal Poverty Guidelines)².

Analysis and Conclusions of Law

The Appellant challenges MassHealth's determination that the Appellant's income is too high for MassHealth benefits. (Exhibit 1, Exhibit 2) MassHealth Regulations at 505.001 describe MassHealth coverage types:

505.001: Introduction

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a 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 (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults,

² For 2024, 133% of the FPL for a household of 1 is \$1,670/month or \$20,040/year.

disabled young adults, and disabled children who are not eligible for MassHealth Standard;
(3) MassHealth CarePlus – for adults [REDACTED] years old who are not eligible for MassHealth Standard;
(4) MassHealth Family Assistance S 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.

MassHealth utilizes countable household income, subtracting specific enumerated deductions in calculating income attributed to an applicant as codified within 130 CMR 506.003:

506.003: Countable Household Income

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).

(A) Earned Income.

(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

(3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that

may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income 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.

(C) Rental Income.

Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions.

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.

MassHealth's calculus for determining financial eligibility is codified within the Regulations at 130 CMR 506.007:

506.007: Calculation of Financial Eligibility

The rules in 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(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 in 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.

The Appellant is an adult under the age of [REDACTED] who has no disability attributed, and resides in a household of one. The applicable MassHealth benefit program for an adult, under the age of [REDACTED] who is not disabled is CarePlus. MassHealth CarePlus' requirement for eligibility is codified within the Regulations at 130 CMR 505.008:

505.008: MassHealth CarePlus

(A) Overview.

(1) 130 CMR 505.008 contains the categorical requirements and financial standards for MassHealth CarePlus. This coverage type provides coverage to adults [REDACTED] years old.

(2) Persons eligible for MassHealth CarePlus Direct Coverage are eligible for medical benefits, as described in 130 CMR 450.105(B): MassHealth CarePlus and 130 CMR 508.000: MassHealth: Managed Care Requirements and must meet the following conditions.

(a) The individual is an adult [REDACTED] 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

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill

Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

In order for the Appellant to be deemed eligible for CarePlus, the Appellant's modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 133% of the federal poverty level (FPL). The Appellant lives in a household of one and receives \$2,376/month from Social Security in addition to the income from her employer which fluctuates each week. (Exhibit 6, pg. 2)

The income limit for MassHealth Care Plus is 133% of the federal poverty level, or \$1,670.00 a month for a household of one. The Appellant's countable income, from the Social Security benefit, alone, exceeds this amount and therefore the Appellant is not financially eligible for MassHealth CarePlus.

In disputing MassHealth's eligibility determination, the Appellant also took issue with MassHealth's practice of determining eligibility based on an individual's gross income, as opposed to net income. This argument, however, amounts to a challenge to the legality of applicable law and cannot be adjudicated in this hearing decision. The Appellant may, however, raise such arguments on judicial review in accordance with M.G.L. c. 30A.³

The Appellant has not met the burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid. Accordingly, this appeal is DENIED.

Order for MassHealth

End 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

³ MassHealth Fair Hearing Rules at 130 CMR 610.082(C)(2) state that:

The hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency. Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

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.

Patrick Grogan
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290