

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2411613
Decision Date:	09/24/2024	Hearing Date:	09/17/2024
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Simon Poon, 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

Appeal Decision:	DENIED	Issue:	Community Eligibility – under 65; Income
Decision Date:	09/24/2024	Hearing Date:	09/17/2024
MassHealth’s Rep.:	Simon Poon	Appellant’s Rep.:	Pro se
Hearing Location:	Remote	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 July 26, 2024, MassHealth downgraded the appellant's MassHealth benefits from MassHealth Standard plus Premium Assistance to Health Safety Net because MassHealth determined that the appellant’s income exceeded the allowed threshold. See 130 CMR 505.002; 130 CMR 506.002; 130 CMR 506.003; 130 CMR 506.007; and Exhibit 1. The appellant filed this appeal in a timely manner on August 2, 2024. See 130 CMR 610.015(B) and Exhibit 2. Aid pending protection was put in place to protect the appellant’s MassHealth benefits. Any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance is a valid ground for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth downgraded the appellant’s MassHealth benefits from MassHealth Standard plus Premium Assistance to Health Safety Net because her income exceeded the allowed threshold.

Issue

Whether MassHealth correctly downgraded the appellant’s MassHealth benefits in accordance with 130 CMR 505.002; 130 CMR 506.002; 130 CMR 506.003; and 130 CMR 506.007.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. The appellant appeared pro se and verified her identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is the head of household who resides in a household of three. The appellant was on MassHealth Standard from September 22, 2019 to January 1, 2024 due to the COVID-19 pandemic protection. On July 23, 2024, MassHealth received an income verification from the appellant, verifying her income of \$1,761.99 biweekly or \$3,270.63 per month. The MassHealth representative testified that after a 5% MAGI deduction, this figure equates to 147% of the federal poverty level (FPL) for a household of three, which exceeds the limit for MassHealth benefits. The income limit to be eligible for MassHealth benefits is 133% of the FPL, or \$2,862.00 per month for a household of three. Through a notice on July 26, 2024, MassHealth downgraded the appellant's MassHealth benefits because MassHealth determined that the appellant's income exceeded the allowed threshold for MassHealth Standard. An aid pending protection was put in place which reinstated the appellant's MassHealth Standard benefits effective on August 6, 2024.

The appellant confirmed her household size and verified her monthly income of \$3,270.63. She denied being disabled and stated that she does not have any of the health conditions listed in the regulations. She testified that she applied for Premium Assistance in January 2024 and received payments in April 2024. The appellant complained that no one explained why her benefits were being downgraded and that every time she called MassHealth for assistance she received conflicting and incorrect information. She stated that she had appealed this MassHealth notice before but that she withdrew her appeal because she believed that her benefits will be reinstated. When she became aware that her benefits were downgraded and were only reinstated because of the aid pending protection put in place pending the appeal, she appealed the same notice again. She testified that she understands that she is over the income limit but stated that her prescription medication is very expensive. She needs MassHealth Standard for that reason.

Findings of Fact

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

1. The appellant is the head of household who resides in a household of three. (Testimony and Exhibit 1).
2. The appellant was on MassHealth Standard from September 22, 2019 to January 1, 2024 due

to the COVID-19 pandemic protection. (Testimony and Exhibit 4).

3. On July 23, 2024, MassHealth received an income verification from the appellant, verifying her income of \$1,761.99 biweekly or \$3,270.63 per month.¹ (Testimony).
4. On July 26, 2024, MassHealth downgraded the appellant's MassHealth benefits because MassHealth determined that the appellant's income exceeded the allowed threshold for MassHealth Standard. (Testimony and Exhibit 1).
5. The appellant filed this appeal in a timely manner on August 2, 2024. (Exhibit 2).
6. An aid pending protection was put in place which reinstated the appellant's MassHealth Standard benefits effective on August 6, 2024. (Testimony).
7. At the hearing, the appellant verified her monthly income of \$3,270.63 per month. (Testimony).
8. According to the Federal Poverty Guidelines, 133% of the FPL is \$2,862.00 a month for a household of three. (Testimony and Federal Poverty Guidelines).
9. The appellant has not been determined disabled² and does not have any of the health conditions listed in the regulations. (Testimony).

Analysis and Conclusions of Law

Generally, MassHealth regulations at 130 CMR 505.000 explain the categorical requirements **and** financial standards that must be met to qualify for a particular MassHealth coverage type. To establish eligibility for MassHealth benefits, applicants must meet both the categorical requirements **and** financial standards.

These coverage types set forth at 130 CMR 505.001(A) are as follows:

(1) MassHealth Standard - for people who are pregnant, children, parents and caretaker relatives, young adults³, 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);

¹ In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. See 130 CMR 506.007(A)(2)(c).

² Disability is defined by 103 CMR 501.001 and by 42 U.S.C.A. § 1382c(a)(1), et seq.

³ "[Y]oung adults" are defined as those aged 19 and 20. See 130 CMR 501.001.

- (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, CommonHealth, or CarePlus;
- (5) MassHealth 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
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-In and Buy-In) for certain Medicare beneficiaries.

In this case, the appellant is between the ages of 21 and 65. She testified that she is neither disabled nor has any of the listed health conditions. Id. As such, the appellant does not belong to a category to qualify for MassHealth Standard, or CommonHealth, but she meets the categorical requirements for MassHealth CarePlus. The question then becomes whether she meets the income requirements to qualify for MassHealth CarePlus.

An individual between the ages of 21 and 64 who is categorically eligible for MassHealth CarePlus can only be financially eligible if “the individual’s 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)(c); <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines>. To determine financial eligibility pursuant to 130 CMR 506.007(A), MassHealth must construct a household as described in 130 CMR 506.002(B) for each individual who is applying for or renewing coverage. MAGI household composition rules used to determine member eligibility are the following:

- (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 individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

Id.

Here, the appellant testified and MassHealth verified that she lives in a household of three and that she is the head of household. Thus, for the purposes of this appeal, the appellant meets the

MAGI rules for a household of three.

Once the individual's household size is established, her MassHealth MAGI household income is determined in the following manner:

(2)....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(K).

(b) Countable income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B)⁴ 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.

See 130 CMR 506.007(A).

The MassHealth representative testified, and the appellant agreed that her household income is \$3,270.63 per month. Five percentage points of the current 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. See 130 CMR 506.007(A). The MassHealth representative testified that with the five-percentage points disregard, the appellant's gross income equals 147% of the FPL. Based on the current MassHealth Income Standards and Federal Poverty Guidelines, the income limit for MassHealth benefits is 133% of the FPL, or \$2,862.00 a month for a household of three. See chart at <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines>. Thus, MassHealth correctly calculated that the appellant's MAGI household income is over the threshold limit for MassHealth benefits.

For the foregoing reasons this appeal is DENIED.

⁴ Pursuant to 130 CMR 506.003(B), countable income includes, in relevant part, unearned income, which "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."

Order for MassHealth

Remove aid pending protection.

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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

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