

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411822
Decision Date:	09/06/2024	Hearing Date:	08/27/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Carmen Rivera, Quincy MassHealth Enrollment
Center



*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:	Under 65; Eligibility; Income
Decision Date:	09/06/2024	Hearing Date:	08/27/2024
MassHealth's Rep.:		Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	Yes (ordered)

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 20, 2024, MassHealth denied the appellant's renewal application for MassHealth benefits because MassHealth determined that the appellant's income is too high. *See* 130 CMR 505.008 and Exhibit 1. The appellant filed this appeal in a timely manner on July 31, 2024¹. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's renewal application for MassHealth benefits.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant no longer qualifies for benefits due to her income.

¹ At hearing, there was some confusion over whether the appellant received Aid Pending for the duration of this appeal. After review of the regulations, and for the reasons stated herein, I find that Aid Pending should be applied to this case as the appellant requested.

Summary of Evidence

The appellant is an adult under the age of 65. MassHealth was represented by a worker from the Quincy MassHealth Enrollment Center. All parties appeared at the hearing by telephone. The following is a summary of the evidence and testimony provided:

By way of background, the MassHealth representative explained that on June 20, 2023, the appellant submitted a renewal application for her MassHealth benefits. On June 23, 2023, MassHealth terminated those benefits after finding that the appellant's monthly income exceeded MassHealth limits. However, after a fair hearing, the Board of Hearings found that the appellant qualified for Extended Eligibility, or Transitional Medical Assistance (TMA), pursuant to 130 CMR 505.002(L)(3), and placed a 12 month protection on the appellant's benefits. That protection ended and on June 27, 2024, MassHealth generated a notice terminating the appellant's benefits with an effective date of July 31, 2024.

Related to the notice at issue, the appellant submitted a renewal application on July 20, 2024. On that day, MassHealth determined that the appellant was over the income limit to qualify and denied that application. On July 30, 2024, the appellant called to remove her adult son from her MassHealth account, reporting that she no longer intends to claim him as a tax dependent. At the time of hearing, MassHealth verified that the appellant resides in a household of one and makes approximately \$5800.00 per month.

When the appellant filed her fair hearing request for the notice at issue, she checked a box stating "During the appeal process, I want to keep the benefits that I was receiving before. If I check this line and lose my appeal, I may have to pay back the cost of benefits I received during my appeal." The Board of Hearings reportedly approved the appellant for Aid Pending protection of her benefits, but it appears that the protection was removed due to a computer error. The appellant reported that her monthly gross income is more accurately reflected as \$5779.17. She reported that her bills are very high, that she has trouble keeping up with them, and that she cannot afford any plans offered through the Health Connector. She stated that she was hospitalized in [REDACTED] [REDACTED] with a severe case of COVID-19 that nearly cost her life, and that she still requires monthly visits to multiple doctors to combat the effects of the long-COVID from which she suffers.

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 who resides in a household of one. Testimony, Exhibit 4.
2. The appellant previously received MassHealth Standard benefits, and in June 2023, had a

protection placed on her account extending her eligibility for MassHealth Standard for one year despite earning income over the allowed limit. Testimony. On June 27, 2024, MassHealth terminated that protection with an effective date of July 31, 2024. Exhibit 5.

3. On July 20, 2024, the appellant submitted a renewal application for MassHealth benefits. Testimony.

4. That same day, MassHealth determined that the appellant's income exceeds the limit allowed to qualify for benefits beyond the Health Safety Net and issued a notice reflecting as such. Testimony, Exhibit 1.

5. The appellant filed a timely notice of appeal on July 31, 2024. Exhibit 2. On that fair hearing request, she checked off a box stating: "During the appeal process, I want to keep the benefits that I was receiving before. If I check this line and lose my appeal, I may have to pay back the cost of benefits I received during my appeal." *Id.* It appears that the Board of Hearings initially approved Aid Pending, but, due to a computer error, that protection was removed.

6. The appellant earns a gross monthly income of approximately \$5779.17 in wages. Testimony.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a particular MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility for individuals who are under age 65 are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) *Standard* - for pregnant women, 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 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 who
 - (a) work for small employers;

- (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
- (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
- (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (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 benefits, applicants must meet both the categorical and financial requirements. In this case, the appellant is over the age of 21 but under 65, is no longer a caretaker of a child, and did not report any of the listed health conditions. Thus, as she does not belong to a category to qualify for MassHealth Standard, she meets the categorical requirements for MassHealth CarePlus. The question then remains as to whether she meets the income requirements to qualify.

An individual between the ages of 21 and 64 who does not qualify for MassHealth Standard is eligible for MassHealth CarePlus if “the 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). To determine financial eligibility pursuant to 130 CMR 506.007, MassHealth must construct a household as described, in relevant part, in 130 CMR 506.002(B) for each individual person applying for or renewing coverage:

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

Here, the appellant does not challenge that she resides in a household of one. Based on 2024 MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level equates to a monthly income of \$1670.00 for a household of that size. *See chart at*

MassHealth determines an applicant's modified adjusted gross income (MAGI) by taking the countable income, which includes earned income as 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). Specifically, 130 CMR 506.007 provides how the MAGI is calculated:

...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(C). Income of all the household members forms the basis for establishing an individual's eligibility. 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).

(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. In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. 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) Divide the annual federal poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for

MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100 percent FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding the above, in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

Per 130 CMR 506.003(A), countable income includes "wages, salaries, tips, commissions, and bonuses."

A member appealing a termination or downgrade determination to the Board of Hearings may request that benefits remain in place during the appeal "as described at 130 CMR 610.026: *Continuation of Benefits Pending Appeal.*" *Id.* This continuation of benefits is colloquially known as Aid Pending.

An appellant may qualify for Aid Pending if they meet the following requirements:

When the appealable action involves the reduction, suspension, termination, or restriction of assistance, such assistance will be continued until the [Board of Hearings (BOH)] decides the appeal or, where applicable, the rehearing decision is rendered if the BOH receives the initial request for the fair hearing before the implementation date of the appealable action. If such appealable action was implemented before a timely request for a hearing, such assistance will be reinstated if the BOH receives the request for the fair hearing within ten days of the mailing of the notice of the appealable action.

130 CMR 610.036(A). Put otherwise, the Board of Hearings will approve Aid Pending if requested by the appellant and if the fair hearing request is received within 10 days of the date of the issuance of the notice OR if MassHealth has not yet implemented the decision to reduce, suspend,

terminate, or restrict the benefits.

In this case, MassHealth determined, and the appellant agreed, that the appellant earns approximately \$5779.17 in gross monthly income. As that amount exceeds 133% of the federal poverty level based on the income standards for 2024, the appellant is not financially eligible for MassHealth benefits beyond the Health Safety Net. I find that MassHealth did not err in issuing the July 20, 2024, notice denying the appellant's application for benefits.²

For the foregoing reasons, the appeal is denied.

However, it should be noted that, although the appellant did not submit her fair hearing request within 10 days of the July 20 notice, she did file the appeal prior to the implementation of the termination of her benefits and requested that her benefits remain in place during the appeal process. Thus, she is entitled to receive Aid Pending, which the Board of Hearings initially approved. MassHealth should ensure that she receives that benefit from the date of termination, and the protection may end as of this date of decision.

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.

Order for MassHealth

None, except to approve Aid Pending retroactive to the date of termination and continued during the pendency of this appeal. The benefits may be terminated as of the date of this decision.

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.

² The MassHealth representative reported that the appellant was deemed over income on June 23, 2023, but was placed on Transitional Medical Assistance (TMA) by order of the Board of Hearings pursuant to 130 CMR 505.002(L)(3). That extended eligibility protection allows for MassHealth Standard members who have children younger than 19 in the home to continue to receive their benefits for one year after the household income exceeds 133% of the federal poverty level. As this notice coincides with the ending of the appellant's TMA, and there is no evidence that she is entitled to an extension of that TMA, the record also supports that the appellant's MassHealth Standard benefits were properly terminated.

Mariah Burns
Hearing Officer
Board of Hearings

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171