

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied in part; Dismissed in part	Appeal Number:	2412378
Decision Date:	10/29/2024	Hearing Date:	09/11/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearances for MassHealth:

Nicole Veras – HCR Unit
Morgan Burns - Supervisor



*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 in part; Dismissed in part	Issue:	Community; Under-65; Household Composition
Decision Date:	10/29/2024	Hearing Date:	09/11/2024
MassHealth's Reps.:	Nicole Veras; Morgan Burns	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephonic	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 two notices dated July 9, 2024, MassHealth terminated the appellant's coverage under his mother's application because he "is not in the household" and he "withdrew the application."¹ (Exhibit 1, pp. 13-16; 130 CMR 502.009; 506.002.) The appellant filed this appeal in a timely manner on August 12, 2024. (Exhibit 1; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth closed the appellant's benefits under his mother's application pursuant to a Fair Hearing Decision, Appeal No. 2408844.

¹ The appellant's mother had a separate appeal (Appeal No. 2412332) scheduled for the following day, based upon notices issued the same day. MassHealth's representatives confirmed that the appellant's mother's benefits were protected pending the outcome of her appeal. At the conclusion of the appellant's appeal, the appellant's mother withdrew her appeal. (Exhibit 6.)

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.006; 506.007, in determining that the appellant should be included in his father's application instead of his mother's application.

Summary of Evidence

This is the fifth fair hearing decision issued in relation to the appellant's household composition, albeit the first issued under the appellant's name. (Appeal Nos. 2308060 (Oct. 18, 2023), 2306158 (Nov. 30, 2023), 2402469 (June 5, 2024), and 2408844 (Aug. 30, 2024).) The appellant's parents divorced in 2017. The relevant language of the divorce decree is thoroughly reviewed in the earlier decisions, especially Appeal No. 2408844, which is included in the administrative record at Exhibit 5. The original divorce decree awarded the father "sole physical custody and joint legal custody of his minor child." (Appeal No. 2408844, p. 3.) This decree was modified in 2021 to state the appellant's mother's address would be used as the primary residence for schooling purposes, but the father would

be responsible for maintaining health insurance for [the child] under his care and home for so long as he is eligible; [a]nd the Father's residence shall be considered the primary residence for [the child's] medical purposes. In the event that the Father cannot provide insurance for the child, the Mother shall provide health insurance, provided it is available at a reasonable cost, in which case the Mother's residence shall be considered the primary residence for [the child's] medical purposes.

(Appeal No. 2408844, p. 3; see also Exhibit 1, p. 31.)

The appellant's father was also allowed "to collect and manage [the child's] social security benefits, which are received due to the Father being eligible for social security benefits." (Exhibit 1, p. 33.) The appellant's mother claims the appellant on her taxes as a dependent, but there is no discussion in the Probate Court orders establishing this right.² (See Exhibit 1, pp. 10-12, 39-42.)

All of the appeals arose from the same issue: each parent wants the appellant to be considered as a household member on their MassHealth application as the household size affects the parent's MassHealth eligibility. Each of the earlier appeals has arisen under the appellant's parents' names, and has involved the termination or downgrade of the parent's benefits following the other

² The faxed decree included at Exhibit 1 includes many illegible, highlighted sections. The other Fair Hearing decisions do not identify the decree as establishing the right of one parent to claim the appellant as a dependent, though the appellant established that she claims the appellant as a dependent in Appeal No. 2402469.

parent's moving the appellant from one household to another.³ The appellant is under the age of 19 and he resides primarily with his father.⁴ His benefits have never been interrupted, as regardless of which parent's application he is under, he is eligible for MassHealth Standard.

This appeal arises following the appellant's father's most recent appeal decision. Through Appeal No. 2408844, the appellant was found to be a part of his father's Disabled Adult Household, claiming the appellant as a non-tax-filing child under the age of 19. MassHealth moved the appellant out of his mother's household as a result of this decision. At the hearing, MassHealth's representatives agreed that they could keep the appellant under his father's application and add him back as a non-applying tax dependent into his mother's application. This would allow everyone involved to continue to have a household size of two when their MassHealth eligibility is determined.

The appellant's mother has had a contentious relationship with her ex-husband and his mother regarding control over the appellant's medical care and coverage. She expressed hesitation over the appellant's father being allowed to have control over the appellant's benefits, but she was amenable to this outcome as long as she would receive copies of MassHealth notices related to her son's benefits. MassHealth's representative offered to mail out an Authorized Representative Designation ("ARD") form to the appellant's mother. If she is an ARD on her son's casefile, she would receive copies of notices related to his MassHealth benefits. The appellant's mother found this arrangement satisfactory.

This arrangement also resolved her dispute with MassHealth regarding how her benefits were determined, and she asked to withdraw her appeal for the following day (Appeal No. 2412332). MassHealth's representatives confirmed that her benefits had been protected pending appeal. MassHealth would re-determine her benefits moving forward based upon a household size of two, and there would be no gap in her coverage based upon the July 9 termination notice.⁵

It was further discussed that this arrangement would only last until the appellant turned 19 years old, as he could no longer be included in a Disabled Adult Household after that time.

³ Appeal Nos. 2308060 and 2408844 relate to the appellant's father's benefits, and Appeal Nos. 2306158 and 2402469 relate to the appellant's mother's benefits.

⁴ The degree to which he resides with either parent has been disputed in each of the previous appeals. It is a found fact in Appeal No. 2408844 that the appellant resides primarily with his father. This fact is ultimately irrelevant to this appeal.

⁵ If for any reason the appellant's mother disagrees with MassHealth's next notice, it may be separately appealed.

Findings of Fact

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

- 1) The appellant is under the age of 19 and he lives in the community. The appellant resides primarily with his father. (Testimony by MassHealth's representatives; see Exhibit 6.)
- 2) The appellant's mother claims him as a dependent on her taxes. (Exhibit 1, pp. 39-42.)
- 3) Following Appeal No. 2408844, the appellant was moved from his mother's MassHealth application to his father's. His MassHealth Standard coverage was never interrupted. (Testimony by MassHealth's representatives; Exhibit 5.)
- 4) MassHealth added the appellant as a non-applying, tax dependent to the appellant's mother's household. (Testimony by MassHealth's representatives.)

Analysis and Conclusions of Law

In determining financial eligibility for MassHealth members and applicants under the age of 65, MassHealth reviews the person's "household composition, countable income, deductibles, calculation premiums, and copayments for all coverage types." (130 CMR 506.001(A).) MassHealth determines households at the individual member level, and a member can have either a Modified Adjusted Gross Income ("MAGI") Household or a Disabled Adult Household. (130 CMR 506.002(A).) MassHealth "constructs a household . . . for each individual who is applying for ... coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other." (130 CMR 506.007(A)(1).)

A MAGI household consists of:

- (a) the taxpayer, including their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer's spouse, if living with them 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.

(130 CMR 506.002(B)(1).)

A Disabled Adult household consists of: "(1) the individual; (2) the individual's spouse if living with them; (3) the individual's natural, adopted, and stepchildren **younger than 19 years old if living with them**; and (4) if any individual ... is pregnant, the number of expected children." (130 CMR 506.002(C) (emphasis added).)

Individuals claimed as tax dependents are typically included in the taxpayer's household, but "individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent" have their eligibility "determined in accordance with non-tax filer rules" (130 CMR 506.002(B)(2)(b)(3).)

A non-tax-filer household consists of:

- (a) the individual;
- (b) the individual's spouse if living with them;
- (c) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them;
- (d) for individuals younger than 19 years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than 19 years old if living with them; and**
- (e) if any individual described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children.

(130 CMR 506.002(B)(3) (emphasis added).)

A fair hearing decision has already determined that the appellant is appropriately a part of the appellant's father's household, and the "decision of the hearing officer will be final and binding on the acting entity."⁶ (130 CMR 610.085(A)(1); see also Appeal No. 2408844.) Therefore, this appeal is DENIED to the extent that it seeks to have MassHealth move the appellant out of his father's application. It is important to note, however, that this will change when the appellant turns 19 years old.

Further, there is no dispute regarding the appellant's ongoing MassHealth Standard coverage. The appellant continues to be covered by MassHealth Standard, so this appeal is also DISMISSED to the extent that it is a review of MassHealth's termination of the appellant's coverage. (See 130 CMR 610.035(A)(6), (8); 610.051.) MassHealth did not terminate the appellant's benefits, only his coverage under his mother's application. The appellant's ongoing financial eligibility was also considered and approved as part of Appeal No. 2408844.

Order for MassHealth

None.

⁶ The appellant's mother noted that she, too, has two fair hearing decisions that resulted in the appellant being included in her household. However, both decisions are dismissals resulting from MassHealth agreeing to an action and the appellant's mother agreeing the matter was resolved.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc:

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