

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2412259, 2412459
Decision Date:	09/12/2024	Hearing Date:	09/10/2024
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Sherrienne Paiva, Taunton 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:	Community eligibility – under 65; Income
Decision Date:	09/12/2024	Hearing Date:	09/10/2024
MassHealth’s Rep.:	Sherrienne Paiva	Appellant’s Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center Room 2 (Telephone)	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 notices dated August 1, 2024, and August 9, 2024, MassHealth informed Appellants¹ (husband and wife) that their MassHealth Standard benefits would be terminated effective August 15, 2024, upon MassHealth determining that their gross countable household income exceeds the eligibility limit. Exhibit 1. Appellants filed for an appeal with the Board of Hearings (BOH) in a timely manner on August 8, 2024 and August 12, 2024, respectively. *See* 130 CMR 610.015(B) and Exhibit 2. Termination of assistance constitutes a valid ground for appeal. *See* 130 CMR 610.032. *Aid pending* status was granted forestalling the scheduled termination of benefits pending the outcome of this appeal.

Action Taken by MassHealth

MassHealth determined that Appellants no longer financially qualify for MassHealth Standard benefits due to income and terminated their MassHealth Standard benefits.

¹ Hereinafter, Appellants shall be referred to as “Appellant-husband” and “Appellant-wife.”

Issue

The appeal issue is whether MassHealth correctly determined that the Appellants' household income is too high for the Appellants to receive MassHealth Standard benefits.

Summary of Evidence

MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center. All parties appeared telephonically. Appellant-husband was the named Authorized Representative for the Appellant-wife, and Appellant-husband consented to the hearing officer's request to consolidate the hearings for both husband and wife into one hearing². The following is a summary of the testimony and evidence provided at hearing.

The MassHealth representative testified that the subject notice concerns the determination that Appellants are no longer eligible for MassHealth benefits because their income is over the applicable eligibility limit. According to MassHealth, Appellants are married and live together in a household of five³. Both Appellants are adults between the age of 18-64. The MassHealth representative testified that the Appellants were sent a renewal application in July of 2024. The pay stubs that the Appellants returned with the renewal application indicated that the household had a monthly gross income of \$4,333.00. This places the household at 137.14% of the Federal Poverty Level (FPL) for a household of five, which exceeds the eligibility limit of 133% FPL by 4.14%. The MassHealth representative further stated that at the time of the renewal, immigration documentation was still pending for Appellant-wife.

The Appellant-husband stated that if the termination of their MassHealth Standard benefits was based on immigration status, that is incorrect; his wife has a permanent resident alien, or "green," card. Testimony. He testified that costs are so high right now, his family is struggling. He stated that his family is living "paycheck to paycheck." Testimony. The Appellant-husband testified that "we have diabetes and cancer *in our family*." The Appellant-husband clarified when questioned that neither he nor the Appellant-wife are currently diagnosed with diabetes or cancer. He stated that it would be a hardship for he and his wife to change their providers at this time, as they are "awaiting results" of testing.

The MassHealth representative asked the Appellant-husband if he and his spouse were tax filers. The Appellant-husband answered yes, they file taxes. The MassHealth representative stated that previously the household was listed as non-tax filers and she corrected that in the system, and now she can see that the Appellant and his wife are eligible for a no-cost plan through the Health

² Appellant-wife was unavailable and did not appear at the Fair Hearing. Testimony of Appellant-husband.

³ The Appellants have three children between the ages [REDACTED] and their children remain eligible and active on MassHealth Standard. Testimony of MassHealth representative.

Connector. She can see that they can enroll in Tufts, Fallon, or WellSense and pay no premium. The MassHealth representative urged the Appellant-husband to contact the Health Connector and find out which plans their medical providers accept.

Findings of Fact

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

1. The Appellants are a married couple, both between the ages of 18-64, who reside in a household of five, including three children under age 19. Exhibit 4, Testimony.
2. On August 9, 2024, MassHealth issued a notice terminating the Appellants' MassHealth Standard benefits with an effective date of July 12, 2024, due to the Appellants exceeding the income limits to qualify for benefits. Exhibit 1.
3. The Appellants filed timely notices of appeal on August 8, 2024 and August 12, 2024, respectively. Exhibit 2.
4. The appellant's household's total gross monthly income is \$4,333.00, which is 137.14% of the 2024 FPL for a family of five. Testimony.
5. There is no evidence that the appellant-husband or appellant-wife are disabled, have been diagnosed with cancer, or are HIV positive.

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 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.

According to 130 CMR 505.002(C):

Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

(b) the individual is a citizen as described at 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens; and

(c) 1. the parent lives with their children, and assumes primary responsibility for the child's care in the case of a parent who is separated or divorced, has custody of their children, or have children who are absent from home to attend school; or

2. the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care, if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M).

(emphasis added)

Also, according to 130 CMR 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 21 through 64 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 21 through 64 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.

...

(emphasis added)

Here, the Appellants does not challenge that they reside in a household of five. Based on 2024 MassHealth Income Standards and Federal Poverty Guidelines, 133% of the federal poverty level equates to a monthly income of \$4055.00 or a yearly income of \$48,660.00 for a household of five. See chart at <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

The appellants are not disabled, so are not categorically eligible for MassHealth Standard. However, if Appellants are parents of a child or children under the age of 19 years old, they would be categorically eligible for MassHealth.

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.

Earned income “may include wages, salaries, tips, commissions, and bonuses.” 130 506.003(A)(1). Seasonal income that fluctuates throughout the year is counted by taking the “annual gross taxable income...divided by 12 to obtain a monthly taxable gross income.” *Id.* at 506.003(A)(3). Per 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.”

Here, while the appellants may be categorically eligible for MassHealth Standard as parents, they are not financially eligible. In this case, MassHealth determined, and the Appellant agreed, that the total gross monthly income for the Appellants’ household is \$4,333.00. As that amount exceeds 133% of the 2024 federal poverty level based on the eligibility limits, the Appellants are not financially eligible for MassHealth Standard benefits. In addition, pursuant to 130 CMR 505.008(A), above, they are not financially eligible for MassHealth CarePlus.

In view of the above, I find that MassHealth did not err in issuing the notices terminating the Appellants’ MassHealth benefits.

For the foregoing reasons, the appeal is denied.

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

Remove 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 Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Amy B. Kullar, Esq.
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780