

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2412848
Decision Date:	9/18/2024	Hearing Date:	09/12/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Jesus Tijero (Quincy MEC) *via telephone*



*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/Income/MSP with CommonHealth
Decision Date:	9/18/2024	Hearing Date:	09/12/2024
MassHealth's Rep.:	Jesus Tijero	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South	Aid Pending:	No

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 16, 2024, MassHealth informed the appellant that he was no longer eligible for the Medicare Savings Program (MSP) he had been receiving with his MassHealth CommonHealth because his countable income exceeded the income limit. (See 130 CMR 505.004, 519.010, and 519.011; and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on August 19, 2024. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant was not eligible for MSP as a part of his MassHealth CommonHealth coverage because his countable income exceeded the income limit for CommonHealth with MSP.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.004, 519.010, and 519.011 in determining that the appellant was over the income limit to receive MSP with his CommonHealth coverage.

Summary of Evidence

A worker from Quincy MassHealth Enrollment Center (MEC), and the appellant attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant is a disabled individual under the age of ■ years old. (Testimony; Ex. 3). The appellant has received MassHealth CommonHealth since June 16, 2023. (Testimony; Ex. 3). Prior to June 26, 2024, the appellant was eligible to receive the Medicare Savings Plan (MSP) as part of his CommonHealth coverage. (Testimony). The income limit to receive MSP with CommonHealth is 135% of the federal poverty level (FPL). (Testimony). At the time, the appellant lived in a two person household and received gross monthly income (GMI) of \$1,695 from Social Security. (Testimony). This placed the appellant at 94.47% of the FPL for his two person household. (Testimony).

On June 26, 2024, MassHealth received the appellant's renewal application. (Testimony). In it, the appellant reported that he was now living in a household of one with a GMI of \$1,989 from Social Security. (Testimony). This placed the appellant at 153.5% of the FPL for his household size. (Testimony). The appellant was therefore over the income limit to receive the MSP benefit with his CommonHealth. (Testimony). For that reason, MassHealth sent the appellant the notice informing him that he was no longer eligible for MSP. (Testimony; Ex. 1). MassHealth did pay for the appellant's Medicare Premium for July, but the appellant's MSP ended on July 10, 2024. (Testimony). The appellant remains eligible for CommonHealth. (Testimony).

The appellant testified to the following. The appellant resides with his grandson and his daughter. (Testimony). Previously the appellant claimed his grandson on his taxes, and he was part of the appellant's household. (Testimony). The appellant was no longer claiming his grandson. (Testimony). The appellant is disabled with degenerative disease in his knees, and osteo-arthritis in his neck and shoulder. (Testimony). The appellant's daughter and grandson both help to care for the appellant. (Testimony). The appellant did not dispute MassHealth's income calculation and understood that his income exceeded the income limit to receive MSP with his CommonHealth. (Testimony). The appellant was appreciative to MassHealth for providing MSP assistance prior to this and stated that losing the MSP will cause a hardship since his Social Security will decrease by \$170. (Testimony).

Findings of Fact

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

1. The appellant is a disabled individual under the age of ■ years old. (Testimony; Ex. 3).
2. The appellant has received MassHealth CommonHealth since June 16, 2023. (Testimony; Ex. 3).

3. Prior to June 26, 2024, the appellant was eligible to receive the MSP as part of his CommonHealth coverage. (Testimony).
4. The income limit to receive MSP with CommonHealth is 135% of the FPL. (Testimony).
5. At the time, the appellant lived in a two person household and received GMI of \$1,695 from Social Security. (Testimony).
6. This placed the appellant at 94.47% of the FPL for his two person household. (Testimony).
7. On June 26, 2024, MassHealth received the appellant's renewal application. (Testimony).
8. In it, the appellant reported that he was now living in a household of one with a GMI of \$1,989 from Social Security. (Testimony).
9. This placed the appellant at 153.5% of the FPL for his household size. (Testimony).
10. The appellant was therefore over the income limit to receive the MSP benefit with his CommonHealth. (Testimony).
11. For that reason, MassHealth sent the appellant the notice informing him that he was no longer eligible for MSP. (Testimony; Ex. 1).
12. MassHealth did pay for the appellant's Medicare Premium for July, but the appellant's MSP ended on July 10, 2024. (Testimony).

Analysis and Conclusions of Law

Financial eligibility for coverage types that are determined using the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household with the applicable income standard for the specific coverage type. (130 CMR 506.007(A)). MassHealth will construct a household 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. (130 CMR 506.007(A)(1)).

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 household. Income of all the household members forms the basis for establishing an individual's eligibility. (130 CMR 506.007(A)(2)). A household's countable income is the sum of the gross 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. (130 CMR 506.007(A)(2)(a)). Countable income includes earned income and unearned income less deductions¹. (130 CMR

¹ Neither the MassHealth representative nor the appellant indicated that any deductions were

506.007(A)(2)(b)). Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions and may include wages, salaries, tips, commissions, and bonuses. (130 CMR 506.003(A)). 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 and 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. (130 CMR 506.003(B)).

In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333. ((130 CMR 506.007(A)(2)(c)). Once MassHealth determines a household's countable income, it then determines what percentage of the federal poverty level that income is and subtracts five percentage points from that number. (130 CMR 506.007(A)(3)). This adjusted income is then compared to the federal poverty level to determine the individual's eligibility. (Id.).

A disabled adult [REDACTED] years old is eligible for MassHealth CommonHealth if they are permanently and totally disabled; ineligible for MassHealth Standard; are a citizen; meet a one-time-only deductible or have modified adjusted gross income that is less than or equal to 200% of the FPL and provide verification that they are HIV positive; and utilize available health insurance benefits and must enroll in that health insurance if it is available at no greater cost to the member than they would pay without access to health insurance, or if purchased by MassHealth. (130 CMR 505.004(C)). MassHealth will also pay the cost of monthly Medicare Part B premiums² on behalf of members who are eligible for CommonHealth and who have modified adjusted gross income that is less than or equal to 135% of the FPL. (130 CMR 505.004(L)(1)). If MassHealth determines the member is eligible for this benefit, it begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth. (130 CMR 505.004(L)(2)).

It is not disputed that the appellant meets the categorical criteria for MassHealth CommonHealth described above. The income limit to receive MSP as part of CommonHealth is \$1,694.25 per

applicable here but they are described in 130 CMR 506.003(D) and are as follows: student loan interest; educator expenses; reservist/performance artist/fee-based government official expenses; health savings account; moving expenses, for the amount and populations allowed under federal law; one-half self-employment tax; self-employment retirement account; penalty on early withdrawal of savings; alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018 (those finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible); individual retirement account (IRA); scholarships, awards, or fellowships used solely for educational purposes; student loan interest; and 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.

² in accordance with the Medicare Savings Program as described in 130 CMR 519.010: Medicare Savings Program (MSP) – Qualified Medicare Beneficiaries (QMB) and 519.011: Medicare Saving Program (MSP) – Specified Low Income Medicare Beneficiaries and Qualifying Individuals.

month, which is equal to 135% of the federal poverty level for a household of one. The gross monthly household income for the appellant's household \$1,989, which is equal to 158.5% of the FPL for a household of one. After deducting five percentage points from this raw figure, the appellant's countable income is equal to 153.5% of the FPL. Since this countable income exceeds 135% of the FPL, the appellant does not qualify financially to receive MSP as part of his CommonHealth coverage at this time.

For that reason, the appeal is DENIED.

Order for MassHealth

None.

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.

Scott Bernard
Hearing Officer
Board of Hearings

Cc:

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