

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |               |                       |            |
|-------------------------|---------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied        | <b>Appeal Number:</b> | 2413977    |
| <b>Decision Date:</b>   | 12/2/2024     | <b>Hearing Date:</b>  | 10/08/2024 |
| <b>Hearing Officer:</b> | Scott Bernard |                       |            |

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Maribel Sepulveda (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

|                           |  |                          |  |
|---------------------------|--|--------------------------|--|
| <b>Appeal Decision:</b>   | Denied   | <b>Issue:</b>            | Community Eligibility<br>– under 65/Income |
| <b>Decision Date:</b>     | 12/2/2024                                      | <b>Hearing Date:</b>     | 10/08/2024                                 |
| <b>MassHealth's Rep.:</b> | Maribel Sepulveda                              | <b>Appellant's Rep.:</b> | <i>Pro se</i>                              |
| <b>Hearing Location:</b>  | Springfield<br>MassHealth<br>Enrollment Center | <b>Aid Pending:</b>      | 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 August 8, 2024, MassHealth informed the appellant that her child was eligible for MassHealth Family Assistance starting on July 29, 2024, and after August 22, 2024 she would no longer be eligible for MassHealth Standard because she was over the income limit for her household size. (See 130 CMR 505.008 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on September 9, 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 the appellant's child was not eligible for MassHealth Standard because the appellant's income exceeded the income limit for that coverage.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002 and 506.007, in determining that the appellant's income exceeded the income limit for her child to receive MassHealth Standard.

## Summary of Evidence

A benefits eligibility representative from the Springfield MassHealth Enrollment Center (MEC) spoke on behalf of MassHealth and the appellant spoke on her own behalf. Both parties attended the hearing telephonically.

The MassHealth representative testified to the following. The appellant lives in a household of two consisting of herself and her teenage child who is under the age of 18 years old. (Testimony; Ex. 5). The appellant self reported gross monthly income (GMI) of \$2,640.00, which is the equivalent of 154.92% of the federal poverty level (FPL) for a household of two. (Testimony). The appellant's child also receives \$1,402.00 per month in Social Security dependent benefits, but this income is non-countable under MassHealth regulations. (Testimony). The appellant is a tax filer. (Testimony). The appellant has been receiving MassHealth CommonHealth since March 2023 and is required to pay a premium. (Testimony; Ex. 4).

The MassHealth representative stated that on March 6, 2024 MassHealth automatically renewed the household's eligibility. (Testimony). Based on self reported income of \$2,640.00 per month, the appellant's coverage remained the same (CommonHealth), and her child's coverage was upgraded from MassHealth Family Assistance to MassHealth Standard. (Testimony; Ex. 4; Ex. 5). On August 8, 2024, the MassHealth system completed a periodic data match for the household, which indicated that the household monthly income was \$2,895.70<sup>1</sup>, which equates to 164% of the FPL for a household of two<sup>2</sup>. Therefore, MassHealth issued the notice under appeal which informed the appellant that as of August 22, 2024, her child would no longer be eligible for MassHealth Standard. (Testimony; Ex. 1; Ex. 5). The child's coverage was downgraded to MassHealth Family Assistance beginning on July 29, 2024. (Testimony; Ex. 1; Ex. 5). The MassHealth representative stated that she placed a protection on the child's MassHealth Standard, which will continue until October 31, 2024. (Testimony).

The MassHealth representative explained that in order for a child between the ages of one and 18 years old to be income eligible for MassHealth Standard, the household's GMI cannot exceed \$2,555.00, which is 150% of the FPL for a two person household. (Testimony). If the appellant's child has a disability that is expected to last over 12 months, the appellant can self-attest to that and the MassHealth representative would send the appellant a child disability supplement. (Testimony). The appellant can complete and submit the disability supplement to the Disability Evaluation Service (DES). (Testimony). If DES determines the appellant's child is disabled, she will be eligible for MassHealth CommonHealth. (Testimony). CommonHealth offers the same coverage as MassHealth Standard, but does not have an income limit, although it does require the payment of a monthly premium. (Testimony). That said, since the appellant is already paying a premium for *her* CommonHealth coverage, she would likely only have to pay the amount of that premium.

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<sup>1</sup> This amount was confirmed by the MassHealth representative post hearing. (Exhibit 11)

<sup>2</sup> \$2,895.70 is 169% of the FPL for a household of two, however MassHealth allows a 5% deduction in determining countable income.

(Testimony).

The appellant first stated that she would be interested in completing and submitting the child disability supplement to DES so that her child could be considered for CommonHealth. (Testimony). The MassHealth representative stated that she would mail the supplement to the appellant but also stated that the appellant could access the form online. (Testimony). The appellant could either look on MassHealth's website or type MassHealth Child Disability Supplement into her internet browser of choice. (Testimony).

The appellant explained that the main reason that she was trying to keep her child on MassHealth Standard was that therapeutic mentoring is covered under Standard but not Family Assistance. (Testimony). The appellant's child developed [REDACTED] after being assaulted on a school bus. (Testimony). Since that incident, the child has become very dependent on the appellant, refusing to go into stores or engage in other activities due to [REDACTED] (Testimony). The therapeutic mentor was helping the child manage these conditions and was playing a crucial role in the child's recovery, particularly in addressing social skills, problem-solving, and social conflicts. (Testimony; Ex. 8).

The appellant mentioned that the therapeutic mentor had been part of the child's care plan, as outlined in the IHT IAP reviews she submitted. (Testimony; Exs. 9-10). The appellant's child had also been in an inpatient unit earlier in the year, and feedback from her psychological treatment consistently pointed to the need for the therapeutic mentor. (Testimony). The appellant had fought for about three years to get the mentor, and once the child qualified for it, the progress was significant. (Testimony). However, after a change in coverage, the child lost the mentor, and the appellant did not understand why until she made an inquiry to MassHealth. (Testimony). The change was attributed to a small increase in her income, about \$20, which the appellant was willing to pay to bring the mentor back, considering its importance for the child's well-being. (Testimony). Family Assistance does not cover therapeutic mentoring. (Testimony).

## Findings of Fact

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

1. The appellant lives in a household of two consisting of herself and her teenaged child who is under 18 years old. (Testimony; Ex. 5).
2. Currently, the appellant receives gross monthly Social Security income of \$2,895.70, which is the equivalent of 169% of the federal poverty level (FPL) for a household of two. (Testimony).
3. The appellant's child also receives \$1,402.00 per month in Social Security dependent benefits, but this income is non-countable under MassHealth regulations. (Testimony).

4. The appellant is a tax filer. (Testimony).
5. The appellant has been receiving MassHealth CommonHealth since March 2023 and is required to pay a premium. (Testimony; Ex. 4).
6. On March 6, 2024 MassHealth automatically renewed the household's eligibility. (Testimony).
7. At that time, based on self reported income of \$2,640.00, the appellant's coverage remained the same (CommonHealth), and her child's coverage was upgraded from MassHealth Family Assistance to MassHealth Standard. (Testimony; Ex. 4; Ex. 5).
8. On August 8, 2024, the MassHealth system completed a periodic data match for the household, which indicated that the appellant receives gross monthly Social Security income of \$2,895.70. (Testimony).
9. In order for a child between the ages of one and 18 years old to be income eligible for MassHealth Standard, the household's GMI cannot exceed \$2,555.00, which is 150% of the FPL for a two person household. (Testimony).
10. Therefore, MassHealth issued the notice under appeal which informed the appellant that as of August 22, 2024 her child would no longer be eligible for MassHealth Standard. (Testimony; Ex. 1; Ex. 5).
11. The child's coverage was downgraded to MassHealth Family Assistance beginning on July 29, 2024. (Testimony; Ex. 1; Ex. 5).
12. The MassHealth representative stated that she placed a protection on the child's MassHealth Standard, which will continue until October 31, 2024. (Testimony).

## **Analysis and Conclusions of Law**

Financial eligibility for coverage types that are determined using the MassHealth MAGI 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 (described below) and unearned income (not applicable in this appeal) less deductions<sup>3</sup>. (130 CMR 506.007(A)(2)(b)). Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. (130 CMR 506.003(A)(1)). Earned income may include wages, salaries, tips, commissions, and bonuses. (Id.).

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 child one through 18 years old is eligible for MassHealth Standard if the household's modified adjusted gross income is less than or equal to 150% of the federal poverty level and the child is a citizen or a lawfully present immigrant. (130 CMR 505.002(B)(2)(a)). A child is eligible for MassHealth Family Assistance if the child is younger than 19 years old; the household's modified adjusted gross income is greater than 150%, and less than or equal to 300% of the federal poverty level; the child is ineligible for MassHealth Standard or CommonHealth; the child is a citizen, lawfully present immigrant, or a nonqualified person residing under the color of law (PRUCOL); and the child is uninsured. (130 CMR 505.005(B)(1)).

The record shows that on August 8, 2024 MassHealth's computer system completed a periodic data match for the household, which indicated that the household income was \$2,895.70, which is 169% of the FPL for a family of two. Based on MassHealth regulations, five percentage points is subtracted from this amount to determine countable income. Accordingly, the appellant's countable income is 164% of the FPL for a two person household. The appellant's daughter is over the income limit of 150% FPL for MassHealth Standard for children between the ages of one and 18 years old. The appellant's child is not financially eligible for MassHealth Standard.

For the above reasons, the appeal is DENIED.

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<sup>3</sup> Neither the MassHealth representative nor the appellant stated that any deductions were 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.

## **Order for MassHealth**

Remove any protections and proceed with the downgrade of the child's benefit to Family Assistance as set forth in the notice dated August 8, 2024.

## **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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

Cc:

Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104