

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied in part; Remand	<b>Appeal Number:</b>	2414143
<b>Decision Date:</b>	12/2/2024	<b>Hearing Date:</b>	10/18/2024
<b>Hearing Officer:</b>	Emily Sabo		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kaila Keddle, Tewksbury MEC

**Interpreter:**



*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 in part; Remand	<b>Issue:</b>	Community Eligibility—Under 65; Income
<b>Decision Date:</b>	12/2/2024	<b>Hearing Date:</b>	10/18/2024
<b>MassHealth's Rep.:</b>	Kaila Keddie	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center (Telephone)	<b>Aid Pending:</b>	Yes

### 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 19, 2024, MassHealth notified the Appellant that her MassHealth benefit was being downgraded from MassHealth Standard to Health Safety Net because her income is too high to qualify. 130 CMR 505.002(C)(1)(a) and Exhibit 1. The Appellant filed this appeal in a timely manner on September 11, 2024. 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 downgraded the Appellant's MassHealth Standard benefit on the grounds that her income is too high.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(C)(1)(a), in downgrading the Appellant's MassHealth Standard benefit based on her income.

## Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is an adult between the ages of 21-64 and has a household size of two, consisting of the Appellant and a minor child.<sup>1</sup> The MassHealth representative testified that as part of the renewal process, the Appellant's income was updated and verified. The MassHealth representative testified that the Appellant's earned income is \$705.00 weekly, which is equal to \$3,054.77 monthly, or 174% of the federal poverty level. The MassHealth representative testified that the Appellant is not financially eligible for MassHealth Standard because her income is more than 133% of the federal poverty level. The MassHealth representative testified that the Appellant's monthly income would need to be \$2,266 or less to qualify for MassHealth Standard. The MassHealth representative testified that the Appellant is eligible for a subsidized Connector Care 2B plan, but that the Appellant would need to enroll in a Connector Care plan.

The Appellant testified through an interpreter and verified her identity. The Appellant did not dispute her income. The Appellant testified that she has a child over the age of 18 who she also supports, though she testified that she does not claim that child as a tax dependent.<sup>2</sup>

## Findings of Fact

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

1. The Appellant is an adult between the ages of 21-64 and has a household size of two, consisting of herself and a minor child. Testimony, Exhibit 4.
2. The Appellant has a weekly income of \$705. Testimony.
3. On August 19, 2024, MassHealth notified the Appellant that it was downgrading her benefit from MassHealth Standard to Health Safety Net due to her income. Exhibit 1.
4. On September 11, 2024, the Appellant timely appealed the notice to the Board of Hearings. Exhibit 2.

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<sup>1</sup> The Appellant's minor child continues to receive MassHealth Standard.

<sup>2</sup> The Appellant's fair hearing form also states as reason for the appeal that she suffers from different health conditions.

## Analysis and Conclusions of Law

As described in its regulations, MassHealth provides individuals with access to health care by determining the coverage type that provides the applicant with the most comprehensive benefit for which they are eligible. 130 CMR 501.003(A). The MassHealth coverage types are listed as follows:

- (1) Standard for pregnant women, children, parents and caretaker relatives, young adults,<sup>3</sup> 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 ....
- (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, applicants must meet both the categorical and financial requirements. To calculate financial eligibility, MassHealth regulations at 130 CMR 506.007 provide that:

(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.

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<sup>3</sup> "Young adults" is defined at 130 CMR 501.001 as those aged 19 and 20.

(1) The MassHealth agency will construct a household as described in 130 CMR 506.002 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.

(2) 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 MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) 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(M).

(b) 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(D).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) 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) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.

(2) Round these annual figures up to the nearest hundredth.

(3) Divide by 12 to arrive at the monthly income standards.

130 CMR 506.007.

MassHealth Standard regulations provide the following:

130 CMR 505.002: MassHealth Standard

(A) Overview.

(1) 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F).

....

(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 has 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).

....

(L) Extended Eligibility.

(1) Members of an EAEDC or TAFDC household whose cash assistance terminates continue to receive four months of MassHealth Standard coverage beginning in the month the household became ineligible if they are

(a) terminated from EAEDC or TAFDC and are determined to be potentially eligible for MassHealth; or

(b) terminated from TAFDC because of receipt of or an increase in spousal or child support payments.

(2) Members of a TAFDC household who become ineligible for TAFDC for employment-related reasons continue to receive MassHealth Standard for a full 12-calendar-month period beginning with the date on which they became ineligible for TAFDC if

(a) the household continues to include a child;

(b) a parent or caretaker relative continues to be employed; and

(c) the parent or caretaker relative complies with 130 CMR 505.002(M).

(3) Members of a MassHealth MAGI household who receive MassHealth Standard (whether or not they receive TAFDC) and have earnings that raise the MassHealth MAGI household's modified adjusted gross income above 133% of the federal poverty level (FPL) continue to receive MassHealth Standard for a full 12-calendar-month period that begins

with the date on which the members MAGI exceeds 133% of the federal poverty level (FPL) if

- (a) the MassHealth household continues to include a child younger than 19 years old living with the parent or caretaker;
- (b) a parent or caretaker relative continues to be employed;
- (c) the parent or caretaker relative complies with 130 CMR 505.002(M); and
- (d) the member is a citizen or a qualified noncitizen.

(4) MassHealth independently reviews the continued eligibility of the TAFDC, EAEDC, and MassHealth MAGI households at the end of the extended period described in 130 CMR 505.002(L)(1) through (3).

(5) If an individual in a MassHealth MAGI household who receives MassHealth under 130 CMR 505.002(L)(1) or (2) had income at or below 133% of the FPL during their extended period, and now has income including earnings that raise the MassHealth MAGI modified adjusted gross income above that limit, the MassHealth MAGI household is eligible for another full 12-calendar-month period that begins with the date on which the member's MAGI exceeds 133% of the federal poverty level (FPL) if

- (a) the MassHealth household continues to include a child younger than 19 years old living with the parent or caretaker;
- (b) a parent or caretaker relative continues to be employed; and
- (c) the parent or caretaker relative complies with 130 CMR 505.002(M).

(6) If a MassHealth MAGI household's modified adjusted gross income decreases to 133% of the FPL or below during its extended eligibility period, and the decrease is timely reported to MassHealth, the MassHealth MAGI household's eligibility for MassHealth Standard may be redetermined. If the MassHealth MAGI household's gross income later increases above 133% of the FPL, the MassHealth MAGI household is eligible for a new extended eligibility period.

(M) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007: Potential Sources of Health Care, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: Premium Assistance Payments. Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

130 CMR 505.002(A)(1), (C), (L), (M).

Here, the Appellant is categorically eligible for MassHealth Standard, as her household consists of herself and her minor child.<sup>4</sup> For the Appellant to be financially eligible for MassHealth Standard,

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<sup>4</sup> While not the subject of this appeal, to the extent that the Appellant's health conditions may be disabling, she may also submit a disability supplement to MassHealth to see if she is categorically eligible for MassHealth CommonHealth. Additionally, the Appellant can direct any questions about Health Connector plans to 1-877-MA-

her modified adjusted gross income must be less than or equal to 133% of the federal poverty level. 130 CMR 505.002(C)(1)(a). In 2024, 133% of the federal poverty level for a household of two is \$2,266/month. The Appellant's income is \$2,969.57/month, which is 174.27% of the federal poverty level ( $\$705 \times 4.333 = \$3,054.77 - 5\%$  or  $\$85.2 = \$2,969.57 / \$1,704$  (100% FPL for household of two) = 174.27%). 130 CMR 506.007(A). Because the Appellant's income exceeds 133% of the federal poverty level, the Appellant does not meet the financial requirements to qualify for MassHealth Standard. 130 CMR 505.002(C)(1)(a).

However, under 130 CMR 505.002(L)(3), the Appellant may be entitled to extended eligibility for MassHealth Standard for a twelve-month period from the date on which her income exceeded 133% of the federal poverty level. 130 CMR 505.002(L)(3). Accordingly, the Appellant's appeal is denied in part and is remanded to MassHealth to determine whether the Appellant is entitled to extended eligibility for a period of time under 130 CMR 505.002(L)(3).

## **Order for MassHealth**

Determine whether the Appellant is entitled to a period of extended eligibility for MassHealth Standard based on the date on which her income exceeded 133% of the federal poverty level in accordance with 130 CMR 505.002(L)(3), and if so, adjust the end date for her MassHealth Standard benefit accordingly.

## **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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the

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ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.



address on the first page of this decision.

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Emily Sabo  
Hearing Officer  
Board of Hearings

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