

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2414178
Decision Date:	12/5/2024	Hearing Date:	10/18/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jessica Ramirez, 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

Appeal Decision:	Denied	Issue:	Community Eligibility—Under 65
Decision Date:	12/5/2024	Hearing Date:	10/18/2024
MassHealth's Rep.:	Jessica Ramirez	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center (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 a notice dated August 16, 2024, MassHealth notified the Appellant that her MassHealth benefit was being downgraded from CarePlus to Health Safety Net effective September 30, 2024 because the Appellant's income is too high. 130 CMR 505.008(A)(2)(c) and Exhibit 1. The Appellant filed this appeal in a timely manner on September 13, 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 benefit from CarePlus to temporary Health Safety Net on the grounds that her income is too high.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.008(A)(2)(c), in determining that the Appellant is not eligible for MassHealth CarePlus 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 one. The MassHealth representative testified that the Appellant's income is \$797.55/weekly, which is equal to 270.36% of the 2024 federal poverty level (FPL). The MassHealth representative testified that the Appellant is not financially eligible for MassHealth CarePlus because her income is more than 133% of the FPL.

The Appellant testified through an interpreter and verified her identity. The Appellant stated that the income information used was from last year when she was earning overtime. The Appellant testified that she works 40 hours a week, for \$19.50/hour, for a weekly income of \$780. The Appellant testified that half of her income goes toward her rent and her living costs are very high. The Appellant testified that no one could live on 133% of the federal poverty level.

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 one. Testimony, Exhibit 4.
2. The Appellant has a weekly income of \$780. Testimony.
3. On August 16, 2024, MassHealth notified the Appellant that her MassHealth CarePlus was ending effective September 30, 2024, due to her income. Exhibit 1.
4. On September 13, 2024, the Appellant timely appealed the notice to the Board of Hearings. Exhibit 2.

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,¹ 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.

(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

¹ "Young adults" are defined at 130 CMR 501.001 as those aged 19 and 20.

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.

130 CMR 506.003: Countable Household Income

Countable household 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).

(A) Earned Income.

(1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.

(2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or

allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.

(3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.

(4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) 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.

(2) Unearned income 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.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses, for the amount and populations allowed under federal law;
- (5) one-half self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);
- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and

(12) 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.

130 CMR 506.003.

506.004: Noncountable Household Income

Because of state or federal law the following types of income are noncountable in the determination of eligibility for individuals described at 130 CMR 506.002. Changes to state or federal law may affect whether the following remains noncountable:

- (A) TAFDC, EAEDC, or SSI income;
- (B) federal veteran benefits that are not taxable in accordance with IRS rules;
- (C) income-in-kind;
- (D) roomer and boarder income derived from persons residing in the applicant's or member's principal place of residence;
- (E) most workers' compensation income;
- (F) pretax contributions to salary reduction plans for payment of dependent care, transportation, and certain health expenses within allowable limits;
- (G) child support received;
- (H) alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018. For individuals with alimony agreements finalized on or before December 31, 2018, alimony continues to be included in the income of the recipient for the duration of the agreement unless or until the agreement is modified;
- (I) taxable amounts received as a lump sum, except those sums that are counted in the month received; in the case of lottery or gambling winnings, those sums that are counted in the month or months required under federal law, including the Tax Cut and Jobs Act of 2017, Public Law 115-97;
- (J) money received for acting as a Parent Mentor as defined under section 1397 mm(f)(5) of chapter 42 of the United States Code of the Social Security Act;
- (K) income received by independent foster-care adolescents described at 130 CMR 505.002(H): Eligibility Requirements for Former Foster-care Individuals;
- (L) income from children and tax dependents who are not expected to be required to file a tax return under Internal Revenue Code, U.S.C. Title 26, § 6012(a)(1) for the taxable year in which eligibility for MassHealth is being determined, whether or not the children or the tax dependents files a tax return; and
- (M) any other income that is excluded by federal laws other than the Social Security Act.

130 CMR 506.004.

Here, to be eligible for MassHealth CarePlus, an individual's modified adjusted gross income must be less than or equal to 133% of the federal poverty level. 130 CMR 505.008(A)(2)(c). In 2024, 133% of the federal poverty level for a household of one is \$1,670/month. The Appellant's income is \$3,379.74/month (\$780 x 4.333). 130 CMR 506.007(A)(2)(c). Because the Appellant's income exceeds 133% of the federal poverty level, the Appellant does not meet the financial requirements to qualify for MassHealth CarePlus. 130 CMR 505.008(A)(2)(c). Therefore, MassHealth did not err in issuing the August 16, 2024 notice, and the appeal is denied.²

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

End 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.

Emily Sabo
Hearing Officer
Board of Hearings

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

² Regarding the Appellant's testimony about her housing costs and the challenges of living on 133% of the federal poverty level, in accordance with the fair hearing regulations, my decision is based on the applicable law or regulation as interpreted by the MassHealth agency. As the hearing officer, I cannot rule on the legality of such law or regulation, and it must be subject to judicial review in accordance with 130 CMR 610.092. 130 CMR 610.082(C)(2).