

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2415453
<b>Decision Date:</b>	11/21/2024	<b>Hearing Date:</b>	11/15/2024
<b>Hearing Officer:</b>	Radha Tilva		

**Appearance for Appellant:**



**Appearances for MassHealth:**

Rhiannon Wojick, Tewksbury MEC Rep.  
Omar Garcia, HCBS Waiver Unit



*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>	MFP waiver - income
<b>Decision Date:</b>	11/21/2024	<b>Hearing Date:</b>	11/15/2024
<b>MassHealth's Reps.:</b>	Rhiannon Wojick, Omar Garcia	<b>Appellant's Rep.:</b>	■
<b>Hearing Location:</b>	telephonic	<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 September 25, 2024, MassHealth determined that appellant is not eligible for the Home and Community-Based Services Waivers for Moving Forward Plan (MFP Waiver) because his income is over the MassHealth income limit for the MFP Waiver Program (see 130 CMR 519.007(H) and Exhibit 1). The appellant filed this appeal in a timely manner on October 8, 2024 (see 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 denied appellant's application for Home and Community-Based Services Waivers for Moving Forward Plan.

### Issue

The appeal issue is whether MassHealth was correct in determining that appellant is over the income limit for the MFP waiver.

## Summary of Evidence

MassHealth was represented by an eligibility case worker and by a worker in the Waiver Unit for MassHealth. The MassHealth eligibility case worker stated that appellant is under the age of 65 and was admitted to a long-term care facility on [REDACTED]. An application for long-term care benefits was filed on March 1, 2024 seeking an eligibility start date of February 6, 2024. The appellant was approved for MassHealth Standard long-term care benefits on July 31, 2024 for the requested start date.

The representative from the Waiver Unit testified that MassHealth received an application for the MFP Waiver on March 1, 2024. The representative explained that the waiver was denied on September 25, 2024 because appellant is over the income limit of \$2,829.00 a month, which is 300% of the federal benefit rate.<sup>1</sup> The representative testified that appellant's income totals \$2,992.27 (\$431.27 for private pension and \$2,561.00 for Social Security).

The appellant was represented by his Health Care Proxy. The representative did not disagree with the income figure on file but was looking for whether or not MassHealth would make an exception to the financial eligibility rules as they wanted to get the appellant back in the community. The representative stated that appellant will continue to get long-term care disability for the next 4 to 5 years.

## Findings of Fact

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

1. The appellant, who is under the age of 65, presently lives in a nursing facility and is receiving MassHealth Standard long-term care benefits.
2. The appellant applied for the MFP Waiver to allow for him to live in the community on March 1, 2024.
3. The Waiver was denied on September 25, 2024 by MassHealth.
4. The income limit for the MFP Waiver is 300% of the federal benefit rate, which at the time of application was \$2,829.00.
5. The appellant's countable gross monthly income is \$2,992.27.

## Analysis and Conclusions of Law

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<sup>1</sup> <https://www.mass.gov/info-details/home-and-community-based-services-hcbs-waivers> (last visited November 18, 2024).

The sole issue under appeal is whether appellant is over the income limit for the MFP Waiver. The MFP Residential Supports Waiver, as authorized under section 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital services, to receive residential support services and other specified waiver services in a 24-hour supervised residential setting (130 CMR 519.007(H)(1)).

130 CMR 519.007(H)(1)(b)(2) is clear and states that the applicant must have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual. At the time of the application, 300% of the federal benefit rate was \$2,829.00. The appellant's countable gross monthly income is slightly over that at \$2,992.27. The appellant's representative did not contest the calculation of appellant's income. The regulation does not allow for any exceptions if the financial standards are not met. Thus, based on the above analysis, MassHealth did not err in denying appellant the MFP Waiver.

This 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.

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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

cc: MassHealth Representative: MassHealth Waiver Unit, Attn: Lauren Silva, 100 Hancock St.,  
6th Flr., Quincy, MA 02171