

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2415799
Decision Date:	1/8/2025	Hearing Date:	11/15/2024
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Steven Aguiar, Taunton MEC



*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:	Eligibility; Over Income; Under 65
Decision Date:	1/8/2025	Hearing Date:	11/15/2024
MassHealth's Rep.:	Steven Aguiar	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	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 October 2, 2024, MassHealth changed appellant's MassHealth benefits from MassHealth Standard to Health Safety Net, beginning on September 22, 2024, because appellant no longer meets MassHealth eligibility criteria. (Ex. 1; 130 CMR 505.002(L)(5)). Appellant filed this appeal in a timely manner on October 11, 2024. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth downgraded appellant's coverage from Standard to Health Safety Net.

Issue

The appeal issue is whether MassHealth was correct in determining that appellant was over income to qualify for MassHealth.

Summary of Evidence

Appellant and the MassHealth worker (worker) appeared by telephone and were sworn. Evidence shows appellant is under 65 (Ex. 4) and is in a household of 2, consisting of herself and one child.¹ The appellant was previously eligible for MassHealth Standard. On September 18, 2023, MassHealth redetermined her eligibility and found she was over the income limit for MassHealth but was eligible for extended coverage for 12 months.² The worker testified appellant began receiving extended coverage benefits beginning on September 18, 2023 but the benefit had recently ended. The worker stated appellant currently has a monthly income \$2,507.22 from employment. The worker stated there is no evidence of disability but the worker provided information to appellant about the process of applying for a disability. Appellant's income was 142.19% of the Federal Poverty Level (FPL), making appellant over income for MassHealth benefits but eligible for a plan on the Health Connector. (Testimony; Ex. 1). The worker informed appellant if her income changes, she can submit updated pay stubs to MassHealth. (Testimony).

Appellant asked about applying for a disability. She stated the cheapest Health Connector plan did not provide coverage for the doctors she needs to see. (Testimony). She also noted that her income fluctuates and that her more recent paystubs reflect lower earnings. The worker responded that she can resubmit her paystubs at any time for MassHealth to redetermine her financial eligibility.

Findings of Fact

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

1. Appellant is under age 65 and has not been found disabled. She is in a two-person household, consisting of herself and a child. (Testimony; Ex. 1).
2. Appellant was previously eligible for MassHealth Standard.
3. In September 2023, MassHealth reviewed the appellant's eligibility and found she was over the income limit for MassHealth coverage. However, she was deemed eligible for extended coverage (also known as transitional medical assistance, or TMA) for a period of 12 months.
4. At the conclusion of the 12-month extended eligibility period, MassHealth

¹ The worker testified that the appellant lives with another adult and two children, but that each adult claims one child as a tax dependent. Accordingly, the appellant is considered to have a household of two for MassHealth eligibility purposes.

² Extended coverage pursuant to 130 CMR 505.002(L) is also known as Transitional Medical Assistance, or TMA. The worker referred to the coverage as "TMA."

redetermined the appellant's eligibility. She verified gross monthly income of \$2,507.22, which is 142.19% of the federal poverty level for a household of two.

5. 133% of the federal poverty level is \$2,266 per month for a household of two (2024 MassHealth Income Standards and Federal Poverty Guidelines).
6. On October 2, 2023, MassHealth notified the appellant that her coverage would be downgraded from MassHealth Standard to the Health Safety Net. She was also eligible to enroll in a Health Connector plan.

Analysis and Conclusions of Law

At issue in this case is MassHealth's action to downgrade the appellant's coverage from MassHealth Standard to Health Safety Net (with Health Connector eligibility). The appellant was previously eligible for MassHealth Standard and, after verifying an increase to her income in September 2023, was approved for 12 months of "extended eligibility" for Standard coverage.

The Regulation regarding extended eligibility is codified within 130 CMR 505.002(L):

505.002: MassHealth Standard

(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

(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.

At the end of the 12-month period, MassHealth redetermined appellant's eligibility. MassHealth Regulations at 505.001 describe MassHealth coverage types:

130 CMR 505.001: Introduction

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform:

MassHealth: Financial Requirements.

(A) The MassHealth coverage types are the following:

- (1) MassHealth Standard – for people who are pregnant, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years old who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance S for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): Lawfully Present Immigrants, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-in and Buy-in) – for certain Medicare beneficiaries.

MassHealth utilizes countable household income, subtracting specific enumerated deductions in calculating income attributed to an applicant as codified within 130 CMR 506.003:

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.

MassHealth's calculus for determining financial eligibility is codified within the Regulations at 130 CMR 506.007:

506.007: Calculation of Financial Eligibility

The rules in 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(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 in 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 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.

Appellant is an adult under the age of 65, who is not disabled, and resides in a household of 2. MassHealth Standard requirements for eligibility is codified within the Regulations at 130 CMR 505.002:

(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 have 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).

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

In order for appellant to be deemed eligible for Standard, appellant's modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 133% of the FPL. Appellant lives in a household of 2 and has gross monthly income of \$2,507.22. Pursuant to 130 CMR 506.007(A)(3), 5 percentage points of the current FPL is deducted to determine countable income. For a household of 2, 5 percentage points of the current FPL equals \$85.20. Accordingly, the Appellant's countable income is \$2,422.02.

The income limit for MassHealth Standard is 133% of the federal poverty level, or \$2,266.00 a month for a household of 2. Appellant's countable income exceeds this amount and therefore appellant is not financially eligible for MassHealth Standard.

Appellant has not met her burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid. Accordingly, 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.

Thomas Doyle
Hearing Officer
Board of Hearings

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