

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2415937
Decision Date:	12/10/2024	Hearing Date:	11/12/2024
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:



Appearance for MassHealth:

Maribel Sepulveda, Springfield 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:	Community Eligibility – under 65; Income
Decision Date:	12/10/2024	Hearing Date:	11/12/2024
MassHealth’s Rep.:	Maribel Sepulveda	Appellant’s Rep.:	██████
Hearing Location:	Remote	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 October 2, 2024, MassHealth downgraded the appellant’s coverage from MassHealth Standard to Health Safety Net for a limited time and deemed her eligible for a ConnectorCare plan through the Massachusetts Health Connector because MassHealth determined that the appellant’s income exceeded the allowed threshold for MassHealth. See 130 CMR 505.002; 130 CMR 506.002; 130 CMR 506.003; 130 CMR 506.007; and Exhibit 1. The appellant filed this appeal in a timely manner on October 15, 2024. See 130 CMR 610.015(B) and Exhibit 2. Any agency action to suspend, reduce, terminate, or restrict a member’s assistance is valid grounds for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth downgraded the appellant’s coverage from MassHealth Standard to Health Safety net for a limited time and deemed her eligible for a ConnectorCare plan because her income exceeded the allowed threshold.

Issue

Whether MassHealth correctly determined that the appellant is not eligible for MassHealth

benefits in pursuant to 130 CMR 505.002; 130 CMR 506.002; 130 CMR 506.003; and 130 CMR 506.007.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center. The appellant appeared pro se and verified her identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is an adult under the age of 65 who resides in a household of two, including her child. The appellant was on MassHealth Standard through Transitional Medical Assistance¹ from September 1, 2023 to September 30, 2024. On October 2, 2024, through an automated system update, MassHealth determined that the appellant's income equated to 169.85% of the federal poverty Level (FPL) for a household of two, which exceeds the limit for MassHealth Standard. On October 31, 2024, the appellant submitted updated paystubs which lowered her income to 148.37% of the FPL. The income limit to be eligible for MassHealth Standard is 133% of the FPL, or \$27,192.00 per year. The MassHealth representative stated that the appellant's year-to-date earnings as of October 25, 2024, was \$28,555.60 which exceeds the limit for MassHealth benefits. Through a notice dated October 2, 2024, MassHealth downgraded the appellant's Standard coverage to Health Safety Net for a limited time and deemed her eligible for a ConnectorCare plan through the Massachusetts Health Connector. Aid pending protection was put in place to protect the appellant's MassHealth benefits.

The appellant stated that her income varies because her second job is seasonal. However, she confirmed her household size and agreed that her monthly income is \$2,612.42. She stated that she has substantial medical expenses and inquired if these expenses could be considered by MassHealth when determining her eligibility. She added that she has significant hearing loss, wears hearing aids, and considers herself disabled.

The MassHealth representative stated that, since she self-attested to a disability, MassHealth will mail an Adult Disability Supplement form for submission to Disability Evaluation Services (DES). The appellant stated that she will submit the Adult Disability Supplement form as soon as possible.

Findings of Fact

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

¹ This terminology is no longer used in the regulations. The coverage is now available as extended eligibility for MassHealth Standard pursuant to 130 CMR 505.002(L)(3).

1. The appellant is an adult under the age of 65 who resides in a household of two, including her child. (Testimony).
2. The appellant had extended eligibility for MassHealth Standard under 130 CMR 505.002(L)(3) from September 1, 2023 to September 30, 2024. (Testimony and Exhibit 4).
3. On October 31, 2024, based on the appellant's submitted paystubs, MassHealth determined that her income equated to 148.37% of the FPL. (Testimony).
4. The income limit to be eligible for MassHealth Standard is 133% of the FPL, or \$27,192.00 per year. (Testimony and Federal Poverty Guidelines).
5. As of October 25, 2024, the appellant's earned income equaled \$28,555.60. (Testimony).
6. Through a notice dated October 2, 2024, MassHealth downgraded the appellant's Standard coverage to Health Safety Net for a limited time and deemed her eligible for a ConnectorCare plan through the Massachusetts Health Connector. (Testimony and Exhibit 1).
7. The appellant filed this appeal in a timely manner on October 15, 2024. (Exhibit 2).
8. Aid pending protection was put in place to protect the appellant's MassHealth benefits.
9. The appellant has not been determined disabled.² (Testimony).

Analysis and Conclusions of Law

Generally, MassHealth regulations at 130 CMR 505.000 explains the categorical requirements **and** financial standards that must be met to qualify for a particular MassHealth coverage type. To establish eligibility for MassHealth benefits, applicants must meet both the categorical requirements **and** financial standards. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000.

These coverage types set forth at 130 CMR 505.001(A) are as follows:

(1) MassHealth Standard - for people who are pregnant, children, parents and caretaker relatives, young adults³, 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 Disability is defined by 103 CMR 501.001 and by 42 U.S.C.A. § 1382c(a)(1), et seq.

³ "[Y]oung adults" are defined as those aged 19 and 20. See 130 CMR 501.001.

- (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 of age who are not eligible for MassHealth Standard;
- (4) MassHealth 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) MassHealth 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
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-In and Buy-In) for certain Medicare beneficiaries.

The regulation at 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).

The eligibility requirements for parents are set forth in 130 CMR 505.002(C) and are as follows:

- (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).

In this case, the appellant is a parent of a child younger than 19 years of age, so she is categorically qualified for MassHealth Standard. See 130 CMR 505.001(A); 130 CMR 505.002(C)(1). However, categorical qualification in and of itself is not enough. The appellant must also meet the financial standards as set forth in 130 CMR 505.002(C)(1)(a).

A parent who is categorically eligible for MassHealth Standard can only be financially eligible if “the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL).” See 130 CMR 505.002(C)(1)(a).

To determine financial eligibility pursuant to 130 CMR 506.007(A), MassHealth must construct a household as described in 130 CMR 506.002(B) for each individual who is applying for or renewing coverage. MAGI household composition rules used to determine member eligibility are the following:

- (1) Taxpayers Not Claimed as a Tax Dependent on His or Her Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists of
 - (a) the taxpayer; including his or her spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
 - (b) the taxpayer’s spouse, if living with him or her regardless of filing status;
 - (c) all persons the taxpayer expects to claim as tax dependents; and
 - (d) if any individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

Here, the appellant testified and MassHealth verified that she lives in a household of two including her child who is under 19 years of age. Thus, for the purposes of this appeal, the appellant meets the MAGI rules for a household of two.

Once the individual’s household size is established, her MassHealth MAGI household income is determined in the following manner:

- (2)....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(K).
 - (b) Countable income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B)⁴ less deductions described in

⁴ Pursuant to 130 CMR 506.003(B), countable income includes, in relevant part, unearned income, which “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.”

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.

See 130 CMR 506.007(A).

The MassHealth representative testified, and the appellant agreed, that her household income is \$2,612.42 per month. Five percentage points of the current 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. See 130 CMR 506.007(A). After deducting five percentage points of the FPL (\$85.20) from the appellant's total income of \$2,612.42, the appellant's countable income equals \$2,527.22 per month. Based on the current MassHealth Income Standards and Federal Poverty Guidelines, the income limit for MassHealth benefits is 133% of the FPL, or \$2,266.00 a month for a household of two. See chart at <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines>. Thus, the appellant's MAGI household income is over the threshold limit for MassHealth benefits.

Additionally, 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.

See 130 CMR 506.003(D).

The appellant testified that she has substantial medical expenses due to her hearing loss. Since out-of-pocket medical expenses do not fall within the allowable deductions enumerated in 130 CMR 506.003 (D), they cannot be considered by MassHealth in its eligibility determination.

Additionally, the appellant stated that she has significant hearing loss, wears hearing aids, and considers herself disabled. However, she has not been determined disabled by DES and has not submitted an Adult Disability Supplement form for evaluation. As such, she has not been deemed disabled by DES, and MassHealth cannot consider her self-attested disability in its eligibility determination.

Consequently, MassHealth correctly determined that the appellant's income exceeds the allowable threshold limit for MassHealth benefits, and the appellant did not present any evidence to prove that MassHealth's decision was incorrect. See Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983)("[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings").

For the foregoing reasons this appeal is DENIED.

Order for MassHealth

Remove aid pending protection.

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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

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