

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2417727
Decision Date:	1/29/2025	Hearing Date:	12/16/2024
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Milagro Behnk



*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 - Household size/tax dependents
Decision Date:	1/29/2025	Hearing Date:	12/16/2024
MassHealth's Rep.:	Milagro Behnk	Appellant's Rep.:	Pro se
Hearing Location:	Springfield MassHealth Enrollment Center	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 10/30/2024, MassHealth informed the appellant that her child, who is under the age of [REDACTED] years, was no longer part of her household and that a new application must be submitted on his behalf. His MassHealth benefits would terminate on 11/30/2024 (130 CMR 506.002; Exhibit 1). The appellant filed a timely appeal on 11/19/2024 (130 CMR 610.015(B); Exhibit 2). Individual MassHealth agency determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations) are valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant's son's benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant's child is not part of her household for the purposes of MassHealth eligibility.

Summary of Evidence

Both the MassHealth representative and the appellant appeared at the fair hearing telephonically. The MassHealth representative testified that the appellant and her child, a child under ■ years of age, were counted as part of a household of two people. Recently, MassHealth received court documents showing that the son is no longer living in her home and that the child's father, who is not part of the household, now has legal and physical custody of the appellant's son. The notice at issue concerns termination of the child's MassHealth benefits unless he is determined to be eligible as part of the father's household. The MassHealth representative testified that generally, a household is counted as a parent and children who live with her and are claimed as tax dependents. In this case, there is no information that the appellant's child is claimed as her tax dependent or that he lives with her. As a result, a new application must be filed on the child's behalf with information about the custodial parent.

The appellant appeared at the fair hearing and testified that she lost her job and suffers from depression. The child's father has full legal and physical custody of the child; but the child stays with the appellant "part-time." She concluded that the child's father does not want health insurance and has sought custody "to get back at me."

Findings of Fact

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

1. The appellant is between the ages of ■ and has a child who is under ■ years of age (Testimony).
2. For the purposes of MassHealth eligibility, previously the appellant was counted as a household of 2 people (Testimony).
3. Recently, MassHealth received information that the appellant's child is no longer part of the appellant's household.
4. The appellant does not have legal or physical custody of her child.
5. There is no information that the appellant claims her child as a tax dependent (Testimony).
6. On 10/30/2024, MassHealth informed the appellant that her child is no longer considered part of her household. A new application would need to be filed on the child's behalf by the parent he lives with. MassHealth also informed the appellant that her son's MassHealth benefits would terminate on 11/30/2024, unless he was determined to be eligible for benefits as part of his

father's household (Exhibit 1).

7. The appellant filed a timely appeal on 11/19/2024 and a fair hearing was held on 12/16/2024.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 506.002 address MassHealth household composition as follows:

(A) Determination of Household Composition. MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways.

(1) MassHealth Modified Adjusted Gross Income (MAGI) Household Composition. MassHealth uses the MassHealth MAGI household composition rules to determine member eligibility for the following benefits:

- (a) MassHealth Standard, as described in 130 CMR 505.002(B), (C), (D), (F), and (G);
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(F) and (G);
- (c) MassHealth CarePlus, as described in 130 CMR 505.008: MassHealth CarePlus;
- (d) MassHealth Family Assistance, as described in 130 CMR 505.005(B) through (E);
- (e) MassHealth Limited, as described in 130 CMR 505.006: MassHealth Limited; and
- (f) Children's Medical Security Plan (CMSP), as described in 130 CMR 522.004: Children's Medical Security Plan (CMSP).

(2) MassHealth Disabled Adult Household. MassHealth uses the MassHealth Disabled Adult household composition rules to determine member eligibility for the following benefits:

- (a) MassHealth Standard, as described in 130 CMR 505.002(E): Disabled Adults;
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(B) through (E); and
- (c) MassHealth Family Assistance, as described in 130 CMR 505.005(F): Eligibility Requirement for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or Below 100% of the Federal Poverty Level. (Mass. Register #1524, 6/21/2024)

(B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on Their 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 their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer's spouse, if living with them 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.

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1. 2., or 3., the household consists of

1. the individual;
2. the individual's spouse, if living with them;
3. the taxpayer claiming the individual as a tax dependent;
4. any of the taxpayer's tax dependents; and
5. if any individual described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals:

1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the tax payer;
2. individuals younger than ■ years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;
3. individuals younger than ■ years old who expect to be claimed as a tax dependent by a noncustodial parent.

For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

(3) Individuals Who Do Not File a Federal Tax Return and Are Not Claimed as a Tax Dependent on a Federal Tax Return. For an individual who does not expect to file a federal tax return and who does not expect to be claimed as a tax dependent on a federal tax return or when any of the exceptions described at 130 CMR 506.002(B)(2)(b)1., 2., or 3. apply, the household consists of

- (a) the individual;
- (b) the individual's spouse if living with them;
- (c) the individual's natural, adopted, and stepchildren younger than ■ years old if living with them;
- (d) for individuals younger than ■ years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than ■ years old if living with them; and
- (e) if any individual described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children.

(Emphasis added.)

MassHealth determined that the appellant's child, who is under [REDACTED] years of age, is no longer part of her household and a new application must be filed on his behalf by his father, the head of his household. MassHealth terminated the child's benefits on 11/30/2024 because a new application was not submitted. MassHealth's action is based on information it received that the child is no longer part of the appellant's household because the child's father, who is not in the household, has legal and physical custody of the child.

The appellant asserted that because the father does not want to apply for MassHealth benefits, she should be able to include the child in her household. She confirmed that the child's father has legal and physical custody, but she asserted that the child spends time with her.

MassHealth's termination is supported by the above regulations and the facts in the hearing record. The appellant does not have legal or physical custody of the child. MassHealth correctly determined that he is no longer part of her household. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104