

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied in part/ Dismissed in part	Appeal Number:	2418105
Decision Date:	2/5/2025	Hearing Date:	01/07/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:

Pro se

Appearances for MassHealth:

Kristine Angelari, Tewksbury MEC

Eileen Cynamon, Disability Evaluation Services

Yvette Prayor, Disability Evaluation Services



*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 in part/ Dismissed in part	Issue:	Eligibility/Disability
Decision Date:	2/5/2025	Hearing Date:	01/07/2025
MassHealth's Reps.:	Kristine Angelari Eileen Cynamon Yvette Prayor	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 November 22, 2024, MassHealth notified Appellant that he is not eligible for MassHealth benefits because income exceeds program limits (130 CMR 505.001, 506.007 and Exhibit 1). Appellant filed this appeal in a timely manner on November 22, 2024 (130 CMR 610.015(B) and Exhibit 2). Denial assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant that he is not eligible for MassHealth benefits because income exceeds program limits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.007, in notifying Appellant that he is not eligible for MassHealth benefits because income exceeds program limits

Summary of Evidence

The MassHealth representative testified that a job update form was sent to Appellant on September 19, 2024 and was due back to MassHealth by October 19, 2024. The job update form was returned after the due date and showed earned income totaling \$700 weekly. MassHealth testified that Appellant is a household size of one person, with income equating to 236.68% of the federal poverty level. On November 22, 2024, MassHealth issued notice informing Appellant that he is not eligible for MassHealth benefits due to income that exceeds program limits. Appellant is currently enrolled in a Connector Care plan Type 3A. Disability Evaluation Services (DES) testified that Appellant was administratively approved for MassHealth adult disability in May 2022 in response to the Public Health Emergency and consistent with federal continuous coverage requirements. Appellant submitted a disability supplement on April 9, 2024 and again on May 9, 2024 which were determined to be incomplete. On March 12, 2024, DES sent a letter to Appellant's address on file requesting additional information, which was returned to DES on June 3, 2024 (Exhibit 4, pp. 40-44). On June 4, 2024, the disability application was determined to be complete; and after a 5-Step review, the DES supplement was denied by notice dated July 2, 2024 which was sent to Appellant's address on file (Exhibit 4, p. 79). DES testified that returned mail is recorded and there is no record that the notice from DES was returned as undeliverable. DES also sent the notice of the disability determination to MassHealth on July 5, 2024 (Exhibit 4, p. 42). DES testified to the 5-Step review process used to review Appellant's disability status (Exhibit 5). MassHealth testified that Appellant was sent a notice dated July 5, 2024 which informed Appellant that he does not meet disability requirements and coverage would change to CarePlus (Exhibit 6). The July 5, 2024 notice was not appealed. MassHealth also testified that MassHealth records show that Appellant's change of address was not updated until November 26, 2024.

Appellant testified that he did not receive the job update form sent in October 2024, and he found out from his physician that his insurance had been denied, prompting him to call MassHealth. Appellant testified that the July 2, 2024 DES denial notice, and the July 5, 2024 MassHealth denial notice were sent to the correct address where he had resided since September 2020, but he did not receive either notice. Appellant moved to a new address in September 2024, but did not report to MassHealth that he had moved to a new address until he learned that his insurance had been denied. Appellant testified that his income fluctuates depending on how much he can work because of his medical conditions. He added that in 2024 his income was consistent, but in 2025 he has been less able to work, and his income has decreased. Appellant testified that he submitted a disability application to the Social Security Administration, which was denied, but he did not receive notice, and the case expired, and he has not reapplied. Appellant testified that he would submit a new disability supplement with updated medical records dated within 12 months.

Findings of Fact

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

1. Appellant is a household size of one person, between 21 and 64 years of age, who has not been determined to be disabled under the 5-Step disability process.
2. Appellant was administratively approved for MassHealth adult disability in May 2022 in response to the Public Health Emergency.
3. Appellant submitted a disability supplement on April 9, 2024 and again on May 9, 2024 which were determined to be incomplete.
4. On March 12, 2024, DES sent a letter to Appellant's address on file requesting additional information. Appellant provided the information requested on June 3, 2024 (Exhibit 4, pp. 40-44).
5. On June 4, 2024, the disability supplement was determined to be complete; and after completing a 5-Step review, the disability supplement was denied by notice dated July 2, 2024 which was sent to Appellant's address on file (Exhibit 4, p. 79).
6. Returned mail is tracked and recorded by DES, and there is no record that the July 2, 2024 notice from DES was returned.
7. DES sent the notice of the disability determination to MassHealth on July 5, 2024.
8. MassHealth issued a notice dated July 5, 2024 which informed Appellant that he does not meet disability requirements and his coverage would change to CarePlus.
9. The July 5, 2024 notice informing Appellant that he does not meet disability criteria was not appealed.
10. The July 2, 2024 DES denial notice, and the July 5, 2024 MassHealth denial notice were sent to the correct address where Appellant had resided since September 2020.
11. Appellant moved to a new address in September 2024, but did not report to MassHealth that he had moved to a new address until he learned that his insurance had been denied.
12. MassHealth records show that Appellant's change of address was not updated until November 26, 2024.

13. Appellant did not report a diagnosis of HIV.
14. A job update form was sent to Appellant on September 19, 2024 and was due back by October 19, 2024. The job update form was returned after the due date and showed earned income totaling \$700 weekly.
15. 133% of the federal poverty level for a household of one person is \$1,734 (2025).
16. On November 22, 2024, MassHealth issued notice informing Appellant that he is not eligible for MassHealth benefits due to income that exceeds program limits.
17. Appellant is currently enrolled in a Connector Care plan Type 3A.

Analysis and Conclusions of Law

Appellant bears the burden of proof in showing that the MassHealth determination is incorrect.¹ Further, the applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility (130 CMR 501.010(B)). Before an intended appealable action, the MassHealth agency must send a written timely notice to the member except as provided in 130 CMR 610.027. A timely notice is a notice mailed at least ten days before the action. Such notice must include a statement of the right of appeal and the time limit for appealing (130 CMR 610.015(A)). The date of request for a fair hearing is the date on which the Board of Hearings receives such a request in writing. The Board of Hearings must receive the request for a fair hearing within 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing (130 CMR 610.015(B)(1)).

Appellant submitted a disability supplement on April 9, 2024 and again on May 9, 2024 which were determined to be incomplete. On March 12, 2024, DES sent a letter to Appellant's address on file requesting additional information. Appellant provided the information requested on June 3, 2024 (Exhibit 4, pp. 40-44). On June 4, 2024, the disability supplement was determined to be complete, and after completing a 5-Step review, the disability supplement was denied by notice dated July 2, 2024 which was sent to Appellant's address on file (Exhibit 4, p. 79). The DES representatives testified that returned mail is tracked and recorded by DES, and there is no record that the July 2,

¹ See Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007); 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).

2024 notice from DES was returned. DES also sent the notice of the disability determination to MassHealth on July 5, 2024. MassHealth issued notice dated July 5, 2024 which informed Appellant that he does not meet disability requirements and his coverage would change to CarePlus. The notice also informed Appellant that he had the right to appeal the determination within 60 days of receipt of the notice (See Exhibit 6). The July 5, 2024 notice was sent to Appellant's correct address where he had resided since September 2020. If Appellant moved prior to the issuance of the notice, the change of address was not reported to MassHealth. On these facts, Appellant's testimony is not credible that two separate notices were not received from both MassHealth and Disability Evaluation Services informing him that his disability supplement was denied, and MassHealth coverage was downgraded as a result. Both notices were sent to his correct address on file which was confirmed to be accurate by Appellant. Appellant's statement that he did not get the notices does not carry the burden of proof that the notices were not received. The appeal filed on November 22, 2024 is not within 60 days of the July 5, 2024 disability determination notice and the notice of a downgrade in coverage; therefore, the appeal is not timely to address the July 5, 2025 disability determination notice (130 CMR 610.015(B)). Accordingly, issues related to the July 5, 2024 disability determination and downgrade in coverage are DISMISSED.

With regard to the November 22, 2024 notice that informed Appellant he is not MassHealth eligible because income exceeds program limits, MassHealth provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits (130 CMR 501.003(A)). MassHealth offers several coverage types. The coverage type for which an individual is eligible is based on income and circumstances (130 CMR 501.003(B)). Regulation 130 CMR 505.000 et seq., explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows:

- (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 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, 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

Pursuant to 130 CMR 506.003, 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 506.003.² Appellant did not submit evidence of expenses corresponding to the allowable deductions enumerated at 130 CMR 506.003(D). Income of all household members forms the basis for establishing an individual's eligibility (130 CMR 506.007). Here, Appellant's gross earned income forms the basis for establishing his eligibility for MassHealth. In determining monthly income for MassHealth purposes, 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 (130 CMR 506.007(A)). Appellant's reported gross weekly income of \$700 per week equates to \$3,033 per month³ and places Appellant at 227% of the federal poverty level [\$3,033 - \$65.20⁴ = \$2,967] [$\$2,967 \div \$1,304 \times 100 = 227\%$].⁵ Based on updated Federal Poverty Levels for 2025, Appellant's countable income exceeds 133% of the federal poverty level for a household size of 1 [\$1,734] making Appellant ineligible for MassHealth CarePlus (130 CMR 505.008(A)).⁶ Appellant is not currently categorically eligible for any other MassHealth coverage type, although he can submit a new disability supplement at any time (130 CMR 505.001). Because MassHealth correctly determined Appellant's MassHealth eligibility by notice dated November 22, 2024, the appeal is DENIED. Appellant can direct any questions about the Health Connector to 1-877-623-6765, and can direct any questions about the Health Safety Net to 877-910-2100.

² MassHealth allows the following deductions from countable income when determining MAGI: educator expenses; reservist/performance artist/fee-based government official expenses; health savings account; moving expenses; self-employment tax; self-employment retirement account; penalty on early withdrawal of savings; alimony paid to a former spouse; individual retirement account (IRA); student loan interest; and higher education tuition and fees (130 CMR 506.003(D)).

³ $\$700 \times 4.333 = \$3,033$ per month.

⁴ 5% of \$1,304 (2025).

⁵ Appellant can update his income to MassHealth at any time.

⁶ 130 CMR 505.008(A) Overview.

(1) 130 CMR 505.008 contains the categorical requirements and financial standards for MassHealth CarePlus. This coverage type provides coverage to adults 21 through 64 years old.

(2) Persons eligible for MassHealth CarePlus Direct Coverage are eligible for medical benefits, as described in 130 CMR 450.105(B): *MassHealth CarePlus* and 130 CMR 508.000: *MassHealth: Managed Care Requirements* and must meet the following conditions.

(a) The individual is an adult 21 through 64 years old.

(b) The individual is a citizen, as described in 130 CMR 504.002: *U.S. Citizens*, or a qualified noncitizen, as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens*.

(c) The individual's modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level.

(d) The individual is ineligible for MassHealth Standard.

(e) The adult complies with 130 CMR 505.008(C).

(f) The individual is not enrolled in or eligible for Medicare Parts A or B.

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 J. Goode
Hearing Officer
Board of Hearings

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

Disability Evaluation Services, Appeals Unit, 333 South Street, Shrewsbury, MA 01545