

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                                      |                       |            |
|-------------------------|--------------------------------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Dismissed in part;<br>Denied in part | <b>Appeal Number:</b> | 2501585    |
| <b>Decision Date:</b>   | 4/10/2025                            | <b>Hearing Date:</b>  | 03/05/2025 |
| <b>Hearing Officer:</b> | Emily Sabo                           |                       |            |

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Carmen Rivera, Quincy 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

|                           |  |                          |  |
|---------------------------|--|--------------------------|--|
| <b>Appeal Decision:</b>   | Dismissed in part;<br>Denied in part       | <b>Issue:</b>            | Community<br>Eligibility—under 65;<br>Income; Coverage<br>Start Date |
| <b>Decision Date:</b>     | 4/10/2025                                  | <b>Hearing Date:</b>     | 03/05/2025   |
| <b>MassHealth's Rep.:</b> | Carmen Rivera                              | <b>Appellant's Rep.:</b> | Pro se   |
| <b>Hearing Location:</b>  | Quincy Harbor South<br>(Virtual/Telephone) | <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 January 21, 2025, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that the Appellant's income is too high; the notice also stated that Health Safety Net is available for eligible dental services. 130 CMR 506.007(B), 130 CMR 502.003, and Exhibit 1. The Appellant filed this appeal on January 27, 2025, stating that she was filing an appeal on an existing bill. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth benefits and stated that Health Safety Net is available for eligible dental services.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 506.007(B), in determining that the Appellant is not financially eligible for MassHealth benefits.

## Summary of Evidence

The hearing officer and MassHealth representative joined the hearing virtually and the Appellant participated by telephone. The MassHealth representative testified as follows: the Appellant is an adult between the ages of [REDACTED] and has a household size of two. The MassHealth representative testified that the Appellant had previously received MassHealth benefits through the Department of Transitional Assistance, specifically through the Transitional Aid to Families with Dependent Children (TAFDC) program. The MassHealth representative testified that the last time the Appellant qualified for MassHealth Standard was November 5, 2022, and that the Appellant was eligible for Transitional Medical Assistance from November 26, 2022 to June 5, 2024. On February 29, 2024, MassHealth sent the Appellant a notice about completing a new application by April 14, 2024. On May 23, 2024, MassHealth sent the Appellant notice that MassHealth had not received a new application from the Appellant and so the appellant no longer qualified for MassHealth. In June 2024, the Appellant submitted a new application in which she self-attested that she had a disability. On June 17, 2024, MassHealth sent the Appellant notice that she was approved for Health Safety Net for eligible dental services only. On December 4, 2024, Disability Evaluation Services determined that the Appellant was not disabled. Based on that determination, on January 3, 2025, MassHealth removed the self-attested disability from the Appellant's record. On January 21, 2025, MassHealth notified the Appellant that she was not eligible for MassHealth. This is the notice she appealed.

The MassHealth representative testified that the Appellant's household income is 214.56% of the federal poverty level and that the limit for MassHealth Standard is 133% of the federal poverty level. The MassHealth representative explained that the Appellant had Health Safety Net from November 30, 2022 until February 22, 2023, and because her Health Safety Net had expired, the Appellant was no longer eligible for full Health Safety Net coverage.

The Appellant verified her identity. The Appellant testified that she had a mammogram appointment on [REDACTED] and that when she checked in, she was told that her MassHealth insurance had ended. The Appellant testified that she had not received any notices from MassHealth. The Appellant testified that she called MassHealth and spoke with one representative who told her that her MassHealth benefit had ended on June 6, 2024, and that she had secondary coverage. This representative transferred her to a second representative who told her that she had Health Safety Net and she provided this information to the doctor's office and was told that things were all set. Months later, she received a bill for the mammogram services as well as for telehealth visits. The Appellant explained that she would not have attended the mammogram appointment or her telehealth visits if she was told that she only had Health Safety Net Dental. The

Appellant testified that she does not feel that she is responsible for the bill because the MassHealth representative provided her with inaccurate information. The Appellant enrolled in a Connector Care plan in September 2024. The Appellant testified that she last spoke with a MassHealth representative in January 2025, who told her to appeal. The Appellant explained that she did not know that she could appeal or that her Health Safety Net coverage only covered eligible dental services until January 2025.

## Findings of Fact

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

1. The Appellant is an adult between the ages of [REDACTED] who is not disabled, and who has a household size of two. Testimony and Exhibit 4.
2. The Appellant's household modified adjusted gross income (MAGI) is 214.56% of the federal poverty level. Testimony.
3. On January 21, 2025, MassHealth denied the Appellant's application for benefits based on her MAGI. Exhibit 1.
4. On January 27, 2025, the Appellant filed an appeal with the Board of Hearings. Exhibit 2.

## Analysis and Conclusions of Law

MassHealth regulations at 130 Code of Massachusetts Regulations (CMR) provide:

### 610.015: Time Limits

(A) Timely Notice. 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.

(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

- (1) 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;
- (2) unless waived by the BOH Director or his or her designee, 120 days from

- (a) the date of application when the MassHealth agency fails to act on an application;
- (b) the date of request for service when the MassHealth agency fails to act on such request;
- (c) the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action; or
- (d) the date of the alleged coercive or otherwise improper conduct, but up to one year from the date of the conduct if the appellant files an affidavit with the BOH Director stating the following, and can establish the same at a hearing (Failure to substantiate the allegation either before or at the hearing will be grounds for dismissal.):
  - 1. he or she did not know of the right to appeal, and reasonably believed that the problem was being resolved administratively or he or she was justifiably unaware of the conduct in question; and
  - 2. the appeal was made in good faith.
- (3) 30 days after a resident receives written notice of an intent to discharge or transfer pursuant to 130 CMR 610.029(A);
- (4) 30 days after a nursing facility initiates a transfer or discharge or fails to readmit and fails to give the resident notice;
- (5) 14 days after a resident receives written notice of an emergency discharge or emergency transfer pursuant to 130 CMR 610.029(B);
- (6) 14 days after a resident receives written notice of a transfer or discharge that is the result of a nursing facility's failure to readmit the resident following hospitalization or other medical leave of absence;
- (7) for appeals of a decision reached by a managed care contractor:
  - (a) 120 days after the member's receipt of the managed care contractor's final internal appeal decision where the managed care contractor has reached a decision wholly or partially adverse to the member, provided however that if the managed care contractor did not resolve the member's appeal within the time frames described by 130 CMR 508.010(A), 120 days after the date on which the time frame for resolving that appeal has expired;
  - (b) for timing of request for continuation of benefits pending appeal, see 130 CMR 610.036.
- (8) for appeals of PASRR determinations, 30 days after an individual receives written notice of his or her PASRR determination. 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(A), (B).

610.035: Dismissal of a Request for a Hearing

(A) BOH will dismiss a request for a hearing when

- (1) the request is not received within the time frame specified in 130 CMR 610.015;

130 CMR 610.035(A)(1).

#### 506.007: Calculation of Financial Eligibility

The rules at 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 at 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*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.

(2) Round these annual figures up to the nearest hundredth.

(3) Divide by 12 to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100% of the FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

- (1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.
- (2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding 130 CMR 506.007(A) through (D), in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007: *Continuing Eligibility*, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

130 CMR 506.007.

#### 505.002: MassHealth Standard

##### (A) Overview.

- (1) 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).
- (2) Persons who receive Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA) are eligible for MassHealth Standard.
- (3) Persons who receive Transitional Aid to Families with Dependent Children (TAFDC) cash assistance from the Department of Transitional Assistance (DTA) are eligible for MassHealth Standard.
- (4) Children, young adults, and parents and caretaker relatives who receive Emergency Aid to the Elderly, Disabled and Children (EAEDC) cash assistance are eligible for MassHealth Standard if they meet the citizenship and immigration requirements described at 130 CMR 504.002: *U.S. Citizens* and 130 CMR 504.003(A)(1): *Qualified Noncitizens*, (2): *Qualified Noncitizens Barred*, and (3): *Nonqualified Individuals Lawfully Present*.
- (5) Persons who do not otherwise meet the requirements of 130 CMR 505.002, but who meet the AFDC rules that were in effect on July 16, 1996, are eligible for MassHealth

Standard.

(6) Persons eligible for MassHealth Standard coverage are eligible for medical benefits as described at 130 CMR 450.105(A): *MassHealth Standard* and 130 CMR 508.000: *MassHealth: Managed Care Requirements*.

....

(C) Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than ■ 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).

....

(K) Eligibility Requirements for Certain EAEDC Recipients.

(1) Eligibility Requirements. Certain EAEDC recipients are eligible for MassHealth Standard if

- (a) the individual is
  - 1. a child and is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as defined in 130 CMR 504.003(A): *Lawfully Present Immigrants*;
  - 2. the individual is a young adult and is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as defined in 130 CMR 504.003(A): *Lawfully Present Immigrants*;
  - 3. the individual is a parent or caretaker relative and is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as defined in 130 CMR 504.003(A)(1): *Qualified Noncitizens*; and
- (b) the individual receives EAEDC cash assistance.

(2) Eligibility End Date. Individuals whose EAEDC cash assistance terminates and who are determined to be potentially eligible for MassHealth continue to receive medical benefits under MassHealth Standard until a determination of ineligibility is made by MassHealth.

(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 ■ 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
  - (d) the member is a citizen or a qualified noncitizen.
- (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 ■ 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.

130 CMR 505.002(A), (C), (K), (L).

I understand the Appellant's frustration that she may have received inaccurate information when she called MassHealth customer service in June 2024. Regarding the MassHealth notices dated

February 29, 2024, May 23, 2024, and June 17, 2024, respectively, the Appellant's January 27, 2025 appeal is untimely as to all because it was filed well after the 60-day-limit. 130 CMR 610.015(B)(1). Concerning those notices, the appeal is dismissed. 130 CMR 610.035(A)(1).

Turning to the January 21, 2025 notice from MassHealth, the Appellant did not dispute that her household income is 214.56% of the federal poverty level, nor is there record evidence that she is disabled. Therefore, the Appellant is not financially eligible for MassHealth Standard because her income exceeds 133% of the federal poverty level. 130 CMR 505.002(C)(1)(a).

Accordingly, the 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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Emily Sabo  
Hearing Officer  
Board of Hearings

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171