

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2507924
Decision Date:	8/15/2025	Hearing Date:	06/25/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Monica Ramirez, Charlestown 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:	8/15/2025	Hearing Date:	06/25/2025
MassHealth's Rep.:	Monica Ramiriez	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 April 25, 2025, MassHealth informed Appellant of a change in coverage from CommonHealth to Health Safety Net (130 CMR 505.001 and Exhibit 1). Appellant filed this appeal in a timely manner on May 20, 2025 (130 CMR 610.015(B) and Exhibit 2). Notice of a change in the scope of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth informed Appellant of a change in coverage from CommonHealth to Health Safety Net.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001 et seq., in downgrading Appellant's coverage from CommonHealth to Health Safety Net.

Summary of Evidence

The MassHealth representative testified that Appellant is between 21 and 65 years of age and was determined disabled by MassHealth on October 5, 2019 and had been receiving CommonHealth coverage. On January 22, 2025, Appellant was sent a Continuing Disability Review (CDR) form by MassHealth to complete and return for evaluation of her disability status. Appellant did not return the CDR to MassHealth, and on April 20, 2025, MassHealth determined Appellant is no longer disabled by MassHealth because the CDR was not returned. On April 25, 2025, MassHealth notified Appellant that she is no longer eligible for CommonHealth, and coverage changed to Health Safety Net. The MassHealth representative testified that CommonHealth coverage ended on May 31, 2025. Appellant returned a CDR form to DES on May 29, 2025, which was determined by DES to be incomplete on June 20, 2025. Appellant is a household size of one person. Appellant is employed with seasonal income totaling \$2,534 per month which exceeds the limit for CarePlus, \$1,735 per month. MassHealth testified that Appellant works January through May, and August through December, with gross annual income of \$25,243. The MassHealth representative stated that CommonHealth could be reinstated if Appellant is determined disabled, and a benefit start date would be determined when DES completes the CDR review. Otherwise, Appellant is not eligible for a MassHealth coverage type. Appellant is eligible for Health Safety Net and a Health Connector plan, but she has not enrolled.

Appellant verified household size and seasonal income that she earns during the school year. Appellant testified that she was found disabled due to a genetic condition. When she received disability forms in the past, she called MassHealth and was told that she did not need to fill out the form. Appellant testified that she received the CDR form in January 2025 and called MassHealth to ask what she needed to do with it. She testified that a representative told her to not complete the CDR and to discard it. She spoke with another MassHealth representative in May 2025 and learned that she did need to fill out the CDR and return it to MassHealth. When she returned the CDR to MassHealth in May 2025, release forms to contact her physicians were incomplete. Appellant added that she feels she lost CommonHealth coverage because she was told to discard the CDR in January and has incurred medical expenses since CommonHealth coverage ended.

Findings of Fact

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

1. Appellant is between 21 and 65 years of age and was determined disabled by MassHealth on October 5, 2019.
2. On January 22, 2025, Appellant was sent a Continuing Disability Review (CDR) form by MassHealth. Appellant did not return the CDR to MassHealth.
3. On April 20, 2025, MassHealth determined Appellant is no longer considered disabled by

MassHealth because the CDR was not returned to MassHealth.

4. On April 25, 2025, MassHealth notified Appellant that she is no longer eligible for CommonHealth, and coverage changed to Health Safety Net.
5. CommonHealth coverage ended on May 31, 2025.
6. On May 29, 2025, a CDR was returned, and determined by DES to be incomplete on June 20, 2025.
7. Appellant is a household size of one person.
8. Appellant is employed with gross annual seasonal income totaling \$25,243.
9. 100% of the federal poverty level for a household size of one person is \$1,305.
10. 133% of the federal poverty level for a household size of one person is \$1,735 per month.

Analysis and Conclusions of Law

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. (130 CMR 501.003(B)). The coverage type for which an individual is eligible is based on their income and circumstances. (130 CMR 515.003(B)).

Regulation 130 CMR 505.000 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

To be found disabled for MassHealth Standard or CommonHealth, an individual must be *permanently and totally disabled* (130 CMR 501.001). Pursuant to 130 CMR 505.002(H), disability is established by:

- (1) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
- (2) a determination of disability by the SSA; or
- (3) a determination of disability by the Disability Evaluation Services (DES).

Appellant was found disabled by MassHealth/DES on October 5, 2019. On January 22, 2025, Appellant was sent a Continuing Disability Review (CDR) form by MassHealth to review her disability status. A CDR form instructs an applicant to complete the form and all medical releases and return it to MassHealth/DES within 30 days. Appellant did not return the CDR to MassHealth which Appellant attributed to MassHealth telling her to discard it. Appellant also testified to calling MassHealth in May 2025 and being told she needed to complete and return the CDR form. After considering the evidence and testimony, I conclude that without additional substantiation to support her assertion, I cannot find credible Appellant's testimony that she was told by MassHealth to discard the CDR review form she received in January 2025.¹ Thus, on April 20, 2025, MassHealth correctly determined Appellant is no longer considered disabled by MassHealth because the CDR was not returned to MassHealth. On April 25, 2025, MassHealth correctly notified Appellant that she is no longer eligible for CommonHealth, and coverage changed to Health Safety Net. Appellant returned a CDR form to DES on May 29, 2025, which was determined by DES to be incomplete on June 20, 2025. Because the January 2025 CDR was not returned and a completed CDR form has not been submitted, MassHealth correctly ended CommonHealth coverage, and determined Appellant's eligibility on April 25, 2025 as a non-disabled individual.

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. Appellant did not testify to or document any of the allowable expenses under 506.003(D)²; however, Appellant can update changes in income and applicable

¹ Appellant has the burden of proof. See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 Page 9 of Appeal No.: 2309752 (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).

² See 130 CMR 506.003(D) Deductions. Under federal law, the following deductions are allowed when calculating

expenses to MassHealth at any time. Income of all household members forms the basis for establishing an individual's eligibility (130 CMR 506.007). In determining monthly income for MassHealth purposes, the MassHealth agency multiplies average weekly income by 4.333. Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine the eligibility of the individual under the coverage type with the highest income standard (130 CMR 506.007(A)). MassHealth testified to monthly income of \$2,534 calculated to reflect seasonal income over 10 months, while also testifying to gross annual income of \$25,243. Based on the \$25,243 annual figure divided over 12 months, Appellant's earned seasonal income totals \$2,103.58 monthly, which places household income at 156.19% of the federal poverty level [$\$2,103.58 - \$65.25^3 = \$2,038.33$] [$\$2,038.33 \div \$1,305 = 156.19\%$].⁴ MassHealth correctly determined that Appellant's countable income exceeds 133% of the federal poverty level for a household size of one [$\$1,735$] making Appellant ineligible for MassHealth CarePlus (130 CMR 505.008(A))⁵ Because Appellant is not otherwise categorically

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.

³ 5% of \$1,305.

⁴ See 130 CMR 506.003(A)(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. Based on gross annual income of \$25,243, Appellant's seasonal income is calculated: \$25,243 earned over 10 months divided by 12 months = \$2,103.58 per month.

⁵ 130 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.

eligible for a MassHealth coverage type, MassHealth correctly denied coverage by notice dated April 25, 2025. Appellant can direct any questions about the Health Connector to 1-877-623-6765 and Health Safety Net to 877-910-2100.

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: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

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- (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.