

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2510960
Decision Date:	10/6/2025	Hearing Date:	9/05/2025
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Langze Phunkhang, MassHealth Charlestown

Interpreter:

N/A



*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>	Denied	<b>Issue:</b>	Eligibility under 18, income, CMSP
<b>Decision Date:</b>	10/6/2025	<b>Hearing Date:</b>	9/05/2025
<b>MassHealth's Rep.:</b>	Langze Phunkhang	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote (Tel)	<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 July 2, 2025, MassHealth determined that the Appellant's minor child does not qualify for MassHealth benefits but does qualify for the Children's Medical Security Plan based upon the income attributed to the Appellant. (Exhibit 1, 130 CMR 505.002 (B)(1), 130 CMR 505.005(A)(1), and 130 CMR 522.004). The Appellant filed this appeal in a timely manner on July 25, 2025. (130 CMR 610.015(B), Exhibit 2). A decision regarding approved coverage due to income is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth determined that the Appellant's minor child does not qualify for MassHealth benefits but does qualify for the Children's Medical Security Plan based upon the income attributed to the Appellant. (Exhibit 1)

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(A)(1), 130 CMR 505.005(B)(1) and 130 CMR 522.004, in determining that the Appellant's minor child does not qualify for MassHealth benefits, but does qualify for the Children's Medical Security Plan

based upon the income attributed to the Appellant. (Exhibit 1).

## Summary of Evidence

MassHealth testified that the Appellant's minor child is a child under the age of 18, who lives in a household of two. (Testimony) MassHealth testified there was no disability attributed to the Appellant's minor child. (Testimony) MassHealth testified that the Appellant receives income in the amount of \$5,922.67/month. This is derived from income from the Appellant's primary employer in the amount of \$1,038/week as well as secondary employment income in the amount of \$657.64/biweekly. MassHealth testified that the Appellant's child's attributable income calculates to 331.41% of the Federal Poverty Level (FPL) exceeding the limit for MassHealth Standard and MassHealth Family Assistance. (Testimony, Exhibit 1)

The Appellant, in the Fair Hearing Request, indicated the mother is on CommonHealth and cannot afford insurance through the Connector. (Exhibit 2). The Appellant confirmed the accuracy of the income figures utilized by MassHealth. (Testimony) The Appellant indicated that she did not understand how the Appellant's minor child had been approved for various MassHealth programs since 2013, when the Appellant's income was higher in the past<sup>1</sup>. (Testimony) MassHealth confirmed that the Appellant's minor child had been enrolled in various MassHealth plans (Standard and Family Assistance) as well as the Children's Medical Security Plan since 2013. (Testimony, Exhibit 4) MassHealth explained that during the public health emergency during the Covid 19 pandemic, income verifications had not been conducted. (Testimony) The Appellant wishes the minor child to be reinstated to MassHealth Standard. (Testimony)

## Findings of Fact

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

1. The Appellant is the parent of a minor child under the age of 18. The child currently has no disability attributed at the time of Hearing, and the child lives in a household of two. (Testimony, Exhibit 1, Exhibit 4).
2. The Appellant has a gross monthly income of \$5,922.67/month. The Appellant confirmed the accuracy of this amount. (Testimony). The Appellant's income calculates to 331.41% of the Federal Poverty Level (FPL). (Testimony, Exhibit 1)

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<sup>1</sup> The time standards for an Appeal may be found at 130 CMR 610.015(B)(1): a member has 60 days after receiving written notice to file an appeal. Any issue related prior MassHealth coverage from 2013 -2025 is untimely and not addressed within this appeal of the July 2, 2025 Notice.

3. In 2025, 150% of the FPL is \$2,644 a month for a household of two, or \$31,729 a year for a household of two. (2025 MassHealth Income Standards and Federal Poverty Guidelines).
4. In 2025, 300% of the FPL is \$5,288 a month for a household of two, or \$63,456 a year for a household of two. (2025 MassHealth Income Standards and Federal Poverty Guidelines).

## **Analysis and Conclusions of Law**

The Appellant challenges MassHealth's determination that the Appellant's minor child's attributable income qualifies the child for the Children's Medical Security Plan but is too high for MassHealth Standard or MassHealth Family Assistance. (Exhibit 1, Exhibit 2) MassHealth Regulations at 505.001 describe MassHealth coverage types:

### **505.001: Introduction**

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements.

(A) The MassHealth coverage types are the following:

- (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 old who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance S 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.

MassHealth utilizes countable household income, subtracting specific enumerated deductions in calculating income attributed to an applicant as codified within 130 CMR 506.003:

**506.003: Countable Household Income**

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(D).

(A) Earned Income.

(1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.

(2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss

(3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.

(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.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income 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.

(C) Rental Income.

Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions.

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.

MassHealth's calculus for determining financial eligibility is codified within the Regulations at 130 CMR 506.007:

**506.007: Calculation of Financial Eligibility**

The rules in 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 in 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.

The Appellant is the parent of a child under the age of 18, who has no disabilities attributed at the time of Hearing and resides in a household of two. The Appellant seeks approval for MassHealth benefits. The threshold requirements for MassHealth Standard, for a child aged one through eighteen are codified within 130 CMR 505.002(B)(1):

**505.002: MassHealth Standard**

(B) Eligibility Requirements for Children and Young Adults.

Children and young adults may establish eligibility for MassHealth Standard coverage subject to the requirements described in 130 CMR 505.002(B).

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(2) Children One through 18 Years Old.

- (a) A child one through 18 years old is eligible if
1. the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 150% of the federal poverty level; and
  2. the child is a citizen as described in 130 CMR 504.002: U.S. Citizens or a lawfully present immigrant as described in 130 CMR 504.003(A): Lawfully Present Immigrants. (b) Eligibility for a child who is pregnant is determined under 130 CMR 505.002(D).

Here, MassHealth determined that the Appellant's minor child's attributable income exceeds 150% of the Federal Poverty Level, (FPL), and therefore the Appellant's minor child is not eligible for MassHealth Standard at this time. (Testimony, Exhibit 1).

The threshold requirements for MassHealth Family Assistance, for children, are codified within 130 CMR 505.005(A)(1):

**505.005: MassHealth Family Assistance**

(A) Overview. 130 CMR 505.005 contains the categorical requirements and financial standards for MassHealth Family Assistance.

- (1) Children who are citizens, as defined in 130 CMR 504.002: U.S. Citizens, lawfully present immigrants, as defined in 130 CMR 504.003(A): Lawfully Present Immigrants, or nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs), whose modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL) are eligible for MassHealth Family Assistance.

Here, MassHealth determined that the Appellant's minor child's attributable income exceeds both 150% of the Federal Poverty Level, (FPL), as well as 300% of the FPL, and therefore the Appellant's minor child is not eligible for MassHealth Family Assistance at this time. (Testimony, Exhibit 1). The Appellant's minor child has been approved for the Children's Medical Security Plan. The Children's Medical Security Plan requirements for eligibility are codified within the Regulations at 130 CMR 522.004:

**522.004: Children's Medical Security Plan (CMSP)**

(A) Regulatory Authority. The Children's Medical Security Plan (CMSP) is administered pursuant to M.G.L. c. 118E, § 10F.

(B) Overview. CMSP provides coverage to uninsured children younger than 19 years old who do not qualify for any other MassHealth coverage type, other than MassHealth Limited, and who do not have physician and hospital health-care coverage. To apply for these benefits, an applicant must submit an application as

described in 130 CMR 502.001: Application for Benefits and 502.002: Reactivating the Application.

(C) Eligibility Requirements. Children are eligible for CMSP if they are

- (1) a resident of Massachusetts, as defined in 130 CMR 503.002: Residence Requirements;
- (2) younger than 19 years old;
- (3) not otherwise eligible for any other MassHealth coverage type, other than MassHealth Limited. Children who are otherwise eligible and who are not receiving MassHealth coverage as a result of not complying with administrative requirements of MassHealth are not eligible for CMSP. Children who lose eligibility for MassHealth Family Assistance as a result of nonpayment of premiums or as a result of not enrolling in employer-sponsored health insurance through Premium Assistance are not eligible for CMSP; and
- (4) uninsured. An applicant or member is uninsured if he or she
  - (a) does not have insurance that provides physician and hospital health-care coverage;
  - (b) has insurance that is in an exclusion period; or
  - (c) had insurance that has expired or has been terminated.

MassHealth determined that that Appellant's minor children's attributable income exceeds both 150% of the FPL, as well as 300% of the FPL. (Testimony, Exhibit 1, Exhibit 1) Accordingly, MassHealth determined that the Appellant is eligible for the Children's Medical Security Plan with no premium assessed<sup>2</sup>.

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (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).

In order for the Appellant's child, a child between the ages of 1 and 18, to be deemed eligible for MassHealth Standard, the Appellant's child's attributable modified adjusted gross income of the MassHealth MAGI household must be less than or equal to 150% of the Federal Poverty Level (FPL). The Appellant's child's attributable income exceeds this amount.

In order for the Appellant's child, a child under the age of 18, to be deemed eligible for MassHealth Family Assistance, the Appellant's child's attributable modified adjusted gross income of the MassHealth MAGI household must be greater than 150% and less than or equal

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<sup>2</sup> Pursuant to 130 CMR 506.011(B)(6), the Appellant is not assessed a premium. The Appellant's Premium Billing Family Group (PBF) already has a premium assessed for the head of household.

to 300% of the Federal Poverty Level (FPL). The Appellant's child's attributable income exceeds this amount.

The Appellant has not met the burden, by a preponderance of evidence, to show that MassHealth's administrative determination that the Appellant's child's attributable income exceeds the limit for MassHealth Standard, as well as the limit for MassHealth Family Assistance, is invalid. Accordingly, this 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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Patrick Grogan  
Hearing Officer  
Board of Hearings

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