

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:

Appeal Decision:	Denied in Part; Remand	Appeal Number:	1120150
Decision Date:	7/24/12	Hearing Date:	03/19/2012
Hearing Officer:	Zohra Aziz	Record Open to:	05/09/2012

Appellant Representative:

MassHealth Representative:

Irene Paoletta, MEC at Tewksbury

APPEAL DECISION

Appeal Decision:	Denied in Part; Remand	Issue:	HCR Financial Eligibility
Decision Date:	7/24/12	Hearing Date:	03/19/2012



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

MassHealth Rep.:	Irene Paoletta	Appellant Rep.:	Parents
Hearing Location:	Tewksbury MassHealth Enrollment Center	Aid Pending:	Yes

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 October 20, 2011 MassHealth notified the appellant that her MassHealth benefits will change to MassHealth CommonHealth due to her income being too high to get MassHealth Standard. (see 130 CMR 505.002, 519.007(D) and exhibit 1). The appellant filed this appeal in a timely manner on October 31, 2011. (see 130 CMR 610.015(B) and exhibit 2). A change in coverage of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that her MassHealth benefits will change to MassHealth CommonHealth due to her income being too high to get MassHealth Standard.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002 and 519.007, in determining that the appellant is financially ineligible for MassHealth Standard.

Summary of Evidence

A MassHealth representative testified the appellant was eligible for the Home and Community-Based Services Waiver for Persons with Mental Retardation (Waiver) and because of her eligibility for this waiver, the appellant's income was compared to 300% federal benefit rate (FBR) which allowed the appellant to retain a higher level of income while maintain eligibility for MassHealth Standard. In order for the appellant to continue to be eligible for this waiver, she must satisfy the following three criteria (1) have countable income that is less than or equal to 300% of the FBR for

an individual, (2) have countable assets of \$2,000.00 or less; and (3) have not transferred resources for the sole purpose of obtaining MassHealth (see 130 CMR 519.007 and 520.019). The appellant has gross countable income in the amount of \$1,240.00 consisting of \$1,158.00 from Retired Survivor Disability Income (RSDI) and \$82.00 in earned income. (exhibit 4). There is no indication of the appellant having transferred resources to qualify for MassHealth benefits; the appellant satisfies at least two of the above mentioned criteria.

The MassHealth representative continued that on August 9, 2011 MassHealth received an “Income & Asset Information” packet from the Department of Developmental Services (DDS) on behalf of the appellant for a determination of continued eligibility for the Waiver. (exhibit 5). The appellant has two bank accounts with total funds in the amount of \$1,276.92 (\$663.71 + \$613.21). The appellant also has a Trust which has funds in the amount of \$56,360.74 consisting of \$55,328.10¹ in investments and \$1,032.64 in a bank account. (Id.).

The MassHealth representative testified that the appellant is 37 years old and if the appellant was applying for just MassHealth with no Waiver, the appellant’s assets would not be considered. Also, the appellant’s income of \$1,240.00 would entitle her to MassHealth Standard benefits because MassHealth would disregard \$20.00 of the appellant’s income reducing her countable income to \$1,220.00 bringing her countable income below 133% of the FPL for a family group of one, \$1,239.00. However, because the appellant is seeking a Waiver which would entitle her to additional services through DDS, the appellant’s assets are considered. The appellant initially applied for the Waiver in 2010 but there was no indication of the a and the appellant satisfied all the criteria for the waiver at that point on time. In February 2011 when the appellant re-applied for the Waiver, the Trust was listed.

The MassHealth representative testified that the Trust was established on March 10, 1993. The appellant’s parents are designated as the Donors and Trustees. The appellant is the beneficiary of the Trust. The Trustees have the sole discretion to distribution Trust income or principal to or on behalf of the appellant. Upon the death of the appellant, any remaining Trust assets are to be distributed to the Trustees. (exhibit 6). The MassHealth Legal Unit was consulted and Legal Opinions issued initially on July 12, 2011 and then again on March 13, 2012 (in preparation of this appeal). The MassHealth representative testified that both opinions are identical but for the date. (exhibit 7). The MassHealth Legal opinion indicated that it was unclear who actually funded the Trust, the appellant or her parents; therefore an exact legal analysis cannot be provided. MassHealth must first obtain verification of whose assets funded the Trust. If the appellant’s parents’ assets were transferred into the Trust and none of the appellant’s assets were placed in the Trust, then the appellant is not deemed to have established the Trust and is just merely the beneficiary; then the Trust assets are not countable in an eligibility determination. However, any distributions of income and/or principal that are actually made to the appellant would be countable. (see 130 CMR 520.024(A)(4)). (exhibit 7).

¹ The amount indicated in the statements provided at hearing state an amount of \$56,008.32 in investments. (see exhibit 5).

The MassHealth Legal Opinion continued that if the appellant's assets were transferred into the Trust, then both the income and the principal amount of the Trust is countable in an eligibility determination as the Trustees have the discretion to distribute both the income and principal to or on behalf of the appellant. The Trust is a Medicaid Qualifying Trust. (see 130 CMR 520.022(B)). (exhibit 7).

The MassHealth representative testified that in a letter dated August 8, 2011 the appellant's parents indicated that Schedule A of the Trust shows the following original funding: (1) Andover Bank: \$990.00, (2) Fidelity Select Precious Metals Fund: \$2,030.00, (3) Fidelity Short Term World Income Fund: \$3,700.00 and (4) a U.S. Savings Bond: \$200.00. The appellant's parents stated that the U.S. Savings Bonds were never funded into the Trust. The appellant sold one bond a few years ago and retains the other \$100.00 bond in her name. Prior to the funding the Trust, the appellant held the same [the above mentioned assets] in her name. Since the appellant was not working at the time the Trust was created and never worked prior to this time, the money in these accounts came from sources such as birthday and Christmas gifts over the years from parents, grandparents and other relatives. (exhibit 8).

In a letter dated October 18, 2011 the appellant's parents stated that to the best of their knowledge, the original and only funding of the Trust at issue was from money gifted to the appellant over the years by her parents, grandparents and other relatives. The appellant was not working at the time the Trust was created so none of the money in the Trust was earned by the appellant through gainful employment. (exhibit 8). The MassHealth representative testified that based on these letters, it is clear that the Trust was funded utilizing the appellant's assets and as such it deemed that the appellant funded the Trust. The appellant's parents as Trustee have the authority to distribute both the income and principal to or on behalf of the appellant; the Trust is a Medicaid Qualifying Trust and the assets are countable. The assets now have a value of \$56,360.74, which in excess of the allowable limits of \$2,000.00. (see 130 CMR 519.007 (D)(2)). The appellant is no longer eligible for the Waiver.

The appellant was represented by her parents who asserted that the appellant is in need of services from DDS secondary to her disabilities and it is very concerning that she may lose these benefits that are quite crucial to her. The appellant's parents testified that the appellant is currently 37 years old; however the Trust was created in 1993 when the appellant was only 18 years old. The appellant's parents continued that although it is correct that they have the discretion to make payments to her or on her behalf, there has not been a need to do so. Practically all of her life the appellant's parents have been managing her financial affairs and the whole premise behind the creation this Trust was to have some mechanism for funds being available to her in the event that the appellant's parents are no longer available to the appellant. There is even a "spendthrift provision" which prevents the appellant from spending or assigning her interest in this Trust so that it may be available to her down the road when she may need it the most. The appellant's parents testified that the Trust was initially funded with approximately \$2,000.00² and no funds were either

² This figure is different than the figure stated Schedule A, which indicates that the Trust was initially funded with \$6,720.00. (exhibit 6).

added or withdrawn since its inception.

The appellant's parents testified that they are the Donors of the Trust and that the appellant was not employed at the time the Trust created and would not have had access to funds in excess of the \$50,000.00 (the amount the Trust is valued at today). The appellant's parents asserted that the assets in the Trust should be deemed inaccessible because the assets in the Trust are not accessible to the appellant, only the Trustees have the legal right to withdraw and/or make distributions when deemed necessary and there are no provisions in the trust to make any mandatory distributions; it is not a Medicaid Qualifying Trust. (see 130 CMR 520.006).

The appellant's parents continued that the Trust/assets at issue should be deemed non-countable pursuant to MassHealth regulations 130 CMR 520.008, 130 CMR 520.021 and 520.024. The appellant parents further asserted that the Trust at issue is a Special Needs Trust pursuant to 130 CMR 520.008(H) and could not be deemed a Medicaid Qualifying Trust as asserted by MassHealth. The main premise being that the Trust was not funded with the appellant's funds but rather funded by the "Donors", the appellant's parents. (exhibit 9). The appellant's parents expressed their complete dissatisfaction with the testimony of the MassHealth representative and MassHealth's determination. Upon further inquiry, the appellant's parents testified that while some of the funds transferred into the Trust were technically the appellant's funds that were given to her as gifts over the course of the years but held by the appellant's parents, for the most part the funds transferred into the Trust belonged to the them (the appellant's parents) and not the appellant. The appellant's parents added that although the appellant was receiving money from Retired Survivor Disability Income (RSDI), those funds were being utilized to pay the appellant's bills and other expenses and were not used to fund the Trust.

The appellant's parents testified that they have consulted individuals who are very familiar with the MassHealth regulation, all of whom believe that MassHealth is mistaken. (see exhibit 9). The appellant's parents asserted that MassHealth did not take into consideration the letters written by them dated August 8, 2011 and October 18 2011 and had MassHealth taken the letters into consideration, the outcome would have been favorable to the appellant. (see exhibit 8). The MassHealth representative responded that although she did not send the letters to the Legal Unit for review, she did review these letters and they clearly state that the appellant's assets funded the Trust.

At the request of the appellant's parents, the hearing record remained open until April 16, 2012 for the appellant's parents to review and respond to the Legal Opinion submitted by MassHealth at hearing and until May 9, 2012 for MassHealth to respond. (exhibit 10). On April 13, 2012 the Board of Hearing (the Board) received a letter, dated April 11, 2012 from the appellant's father that re-iterated that the appellant's assets funded the Trust at issue.³ (exhibit 11). No response was

³ The appellant's father stated a copy of this submission was sent to the MassHealth representative at the Tewksbury MEC.

received from MassHealth.

Findings of Fact

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

1. The appellant was open on MassHealth Standard through the Home and Community-Based Services Waiver for Persons with Mental Retardation (Waiver).
2. The appellant is 37 years old and part of a family group of one.
3. The appellant is disabled.
4. The appellant has gross countable income in the amount of \$1,240.00 consisting of \$1,158.00 from Retired Survivor Disability Income (RSDI) and \$82.00 in earned income. (exhibit 4).
5. 133% of the federal poverty level for a family group of one is \$1,239.00.
6. 300% of the federal benefit rate for a family group of one is \$2,022.00
7. On March 10, 1993 a Trust was established on behalf of the appellant. (exhibit 6).
8. The appellant's parents are designated as the Donors and Trustees. (exhibit 6).
9. Prior to the funding the Trust, the appellant held these assets in her name. (exhibits 8 and 11).
10. The money in these accounts came from sources such as birthday and Christmas gifts over the years from parents, grandparents and other relatives. (exhibits 8 and 11).
11. The appellant is the beneficiary of the Trust. (exhibit 6).
12. The Trustees have the sole discretion as to distribution of Trust income or principal to or on behalf of the appellant. (exhibit 6).
13. Upon the death of the appellant, any remaining Trust assets are to be distributed to the Trustees (the appellant's parents). (exhibit 6).
14. Schedule A of the Trust states the Trust was funded with the following assets: (1) Andover Bank: \$990.00, (2) Fidelity Select Precious Metals Fund: \$2,030.00, (3) Fidelity Short Term World Income Fund: \$3,700.00. (exhibit 8).
15. Prior to the funding the Trust, the appellant held these assets in her name. (exhibits 8 and 11).

16. The money in these accounts came from sources such as birthday and Christmas gifts over the years from parents, grandparents and other relatives. (exhibits 8 and 11).
17. At the time of the hearing, the Trust had funds in the amount of \$56,360.74 consisting of \$55,328.10 in investments and \$1,032.64 in a bank account. (exhibit 5).
18. The Trust is not subject to legal proceeding.
19. The Trustees whereabouts are not unknown.
20. There was no indication and/or allegation that the Trustees are incapable of competently fulfilling their fiduciary duties.

Analysis and Conclusions of Law

130 CMR 519.007(D) Home and Community-Based Services for Persons with Mental Retardation.

Clinical Requirements. The Home- and Community- Based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the mentally retarded to receive certain waiver services at home or in the community provided he or she

- (a) has mental retardation/developmental disability in accordance with Department of Developmental Services (DDS) standards; and
- (b) would be institutionalized in an intermediate-care facility for the mentally retarded unless he or she receives one or more of the services administered by DDS under the Home- and Community- Based Services Waiver authorized under Section 1915(c) of the Social Security Act

Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency counts the income and assets of only the applicant or member regardless of his or her marital status. The applicant or member must meet all of the following criteria:

- (a) have countable income that is less than or equal to 300 percent of the federal benefit rate (FBR) for an individual;
- (b) have countable assets of \$2,000 or less; and
- (c) have not transferred resources for the sole purpose of obtaining MassHealth, as described in 130 CMR 520.018 and 520.019.

Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(2)(b) may establish eligibility for MassHealth Standard by reducing their assets in

accordance with 130 CMR 520.004, by meeting a deductible as described in 130 CMR 520.028 et seq., or by both.

(see 130 CMR 519.007(D))⁴

130 CMR 520.006: Inaccessible Assets

(A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access. The MassHealth agency does not count an inaccessible asset when determining eligibility for MassHealth for the period that it is inaccessible or is deemed to be inaccessible under 130 CMR 520.006.

(B) Examples of Inaccessible Assets. Inaccessible assets include, but are not limited to

- (1) property, the ownership of which is the subject of legal proceedings (for example, probate and divorce suits); and
- (2) the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.

(C) Date of Accessibility. The MassHealth agency considers accessible to the applicant or member all assets to which the applicant or member is legally entitled

- (1) from the date of application or acquisition, whichever is later, if the applicant or member does not meet the conditions of 130 CMR 520.006(C)(2)(a) or (b); or

- (2) from the period beginning six months after the date of application or acquisition, whichever is later, if

- (a) the applicant or member cannot competently represent his or her interests, has no guardian or conservator capable of representing his or her interests, and the eligibility representative (which may include a provider) of such applicant or member is making a good-faith effort to secure the appointment of a competent guardian or conservator; or

- (b) the sole trustee of a Medicaid Qualifying Trust, under 130 CMR 520.022(B), is one whose whereabouts are unknown or who is incapable of competently fulfilling his or her fiduciary duties, and the applicant or member, directly or through an eligibility representative (which may include a provider), is making a good-faith effort to contact the missing trustee or to secure the appointment of a competent trustee.

(see 130 CMR 520.006)

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or their spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such assets is reasonably considered

⁴ These were the regulations in effect at the time of the hearing. (see exhibit 13).

to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. The applicant or member and the spouse must verify the total value of countable assets. However, if he or she is applying solely for MassHealth Buy-In, as described at 130 CMR 519.011(B), verification is required only upon request by the MassHealth agency. 130 CMR 520.007 also contains the verification requirements for certain assets. The assets that the MassHealth agency considers include, but are not limited to, the following: (A) Cash, (B) Bank Accounts, (C) Individual Retirement Accounts, Keogh Plans, and Pension Funds, (D) Securities, (E) Cash-Surrender Value of Life-Insurance Policies, (F) Vehicles as Countable Assets, (G) Real Estate, (H) Retroactive SSI and RSDI Benefit Payments, (I) Trusts and (J) Annuities, Promissory Notes, Loans, Mortgages, and Similar Transactions. (see 130 CMR 520.007).

Non-countable assets are those assets exempt from consideration when determining the value of assets. In addition to the non-countable assets described in 130 CMR 520.006 and 520.007, the following assets are non-countable: (A) The Home, (B) Assets of an SSI Recipient, (C) Proceeds from the Sale of a Home, (D) Business and Non-business Property, (E) Any Loan or Grant, (F) Funeral or Burial Arrangements, (G) Veterans' Payments, (H) Special-Needs Trust, (I) Pooled Trust, (J) ICF/MR Trust and (K) Other Assets (any other assets considered non-countable for Title XIX eligibility purposes is considered a non-countable asset). (see 130 CMR 520.008).

A special-needs trust is one that meets all the following criteria as determined by the MassHealth agency.

- (1) The trust was created for a disabled individual under the age of 65.
- (2) The trust was created for the sole benefit of the individual by the individual's parent, grandparent, legal guardian, or a court.
- (3) The trust provides that the Commonwealth of Massachusetts will receive amounts remaining in the account upon the death of the individual up to the amount paid by the MassHealth agency for services to the individual.
- (4) When the member has lived in more than one state, the trust must provide that the funds remaining upon the death of the member are distributed to each state in which the member received Medicaid based on each state's proportionate share of the total amount of Medicaid benefits paid by all states on the member's behalf.

(see 130 CMR 515.001)

A Medicaid Qualifying Trust is a revocable or irrevocable trust or similar legal device, created or funded by the individual or spouse, other than by a will, under which (a) the individual is a beneficiary of all or part of the discretionary or required payments or distributions from the trust; and (b) a trustee or trustees are permitted to exercise any discretion to make payments or distributions to the individual.

The maximum amount of payments or fair-market value of property that may be permitted under the terms of the trust to be distributed to the individual assuming the full exercise of discretion by

the trustee or trustees for the distribution of the maximum amount to the individual is countable in the determination of eligibility.

The fair-market value of the home or former home of the nursing-facility resident in a Medicaid qualifying trust is a countable asset and is not subject to the exemptions described at 130 CMR 520.007(G)(2) or 520.007(G)(8).

(see 130 CMR 520.022(B))

Regulation 130 CMR 520.024 applies to trusts whether or not established by will and whether or not established by the individual or spouse.

(A) Irrevocable Trust.

(1) The assets and income held in an irrevocable trust established by the individual or spouse that the trustee is required to distribute to or for the benefit of the individual are countable.

(2) Payments from the income or principal of an irrevocable trust established by the individual or spouse to or for the benefit of the individual are countable.

(3) The assets and income held in an irrevocable trust established by other than the individual or spouse that the trustee is required to distribute to the individual are countable.

(4) Payments from the income or the principal of an irrevocable trust established by other than the individual or spouse to the individual are countable.

(see 130 CMR 520.024)

The appellant's contention that the Trust at issue qualifies as a Special Needs Trust pursuant to 130 CMR 515.001 fails. As currently drafted, the Trust calls for the remaining Trust assets to be distributed to the Trustees upon the appellant's death. This provision runs counter to 130 CMR 515.001's requirement that remaining Trust assets be paid to the Commonwealth of Massachusetts (up to the amount paid by the MassHealth agency for services provided) upon the appellant's death. Therefore, the Trust at issue cannot be defined as a Special Needs Trust.

The evidence supports MassHealth's contention that the Trust at issue is a Medicaid Qualifying Trust pursuant to 130 CMR 520.022(B). As an initial matter, I find that the Trust was funded by the appellant and not by her parents. In letters submitted by the appellant's parents⁵, it is asserted that the Trust was funded by money owned by the appellant (e.g., birthday and Christmas gifts from parents, grandparents, and other relatives). That these letters identify with specificity the sources of the appellant's assets (i.e., parents, grandparents, and relatives), that they make no mention of the appellant's parents' contributing assets to the Trust, and that two of them pre-date the hearing makes them more credible than the appellant's parents' testimony at hearing that they provided all or some of the assets used to fund the Trust. In any event, given that 130 CMR

⁵ The letters are dated August 8, 2011, October 18, 2001, and April 11, 2012. (see exhibits 8 and 11).

520.022(B) makes no distinction between trusts wholly or partially funded by an appellant, a finding that the appellant's parents' did partially fund the Trust would not change the conclusion that the trust at issue is a Medicaid Qualifying Trust.

The terms of the Trust also provide for the beneficiary (the appellant) to receive all or part of the discretionary payments or distributions from the trust; and permit the trustees to exercise discretion in making payments or distributions to or on behalf of the beneficiary. These features place the Trust squarely within 130 CMR 520.022(B)'s definition of a Medicaid Qualifying Trust.⁶

The evidence in the record also does not support the appellant's parents' contention that the assets in the Trust are inaccessible pursuant to 130 CMR 520.006 as it does not satisfy the criteria therein. This Trust is not subject to legal proceeding and there is no indication that the whereabouts of the Trustees are unknown or incapable of competently fulfilling their fiduciary duties. In fact, the Trustees appeared for hearing and there was no indication and/or allegation that they are incapable of competently fulfilling their fiduciary duties.

Given my conclusion that the Trust at issue is a Medicaid Qualifying Trust, the assets are countable in a determination of eligibility. At the time of the hearing, the Trust had funds at least in the amount of \$56,360.74 and this amount is countable. I find MassHealth was within its regulatory authority in determining that the appellant's assets exceed the asset requirement of the Waiver.

Regulation 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. The MassHealth coverage types are the following:

- (1) Standard – for families, pregnant women, children, disabled individuals and women with breast or cervical cancer;
- (2) Prenatal – for pregnant women;
- (3) CommonHealth – for disabled adults and disabled children who are not eligible for MassHealth standard;
- (4) Family Assistance – for children, certain employed adults and persons with an HIV+ status who are not eligible for MassHealth standard of CommonHealth;
- (5) Basic – for the long-term unemployed who have income at or below 100 percent of the federal poverty level and who are receiving services or are on a waiting list to receive services from the Department of Mental Health (DMH), as identified by the DMH to MassHealth, or for individuals or members of a couple who receive EAEDC cash assistance;

⁶ The appellant's parents' arguments that the Trust is not a Medicaid Qualifying Trust because there are no *required* distributions and that the assets are not a result of gainful employment is off the mark. The applicable regulation (130 CMR 520.022(B)) speaks in terms of required *or* discretionary payments (can be either) and also do not distinguish between assets acquired from gainful employment or otherwise.

- (6) Essential – for the long-term unemployed and for the disabled long-term unemployed aliens with special status who have income at or below 100 percent of the federal poverty level and are not eligible for MassHealth Basic;
- (7) Limited – for nonqualified aliens and aliens with special status; and
- (8) Senior Buy-In and Buy-In – for certain Medicare beneficiaries. (See 130 CMR 506.000)

MassHealth financial eligibility is based on 100 percent of the federal poverty level (FPL) for long-term unemployed adults, 133 percent of the FPL for parents and disabled nonworking adults, 200 percent of the FPL for pregnant women, persons with a HIV+ status and children who are special status aliens, and 300 percent of the FPL for children who are citizens, nationals, or qualified aliens, as well as for adults working for qualified employers. Disabled individuals with income that exceeds these financial standards may be eligible for MassHealth CommonHealth. There are no income caps for premium-based CommonHealth and the Children’s Medical Security Plan (CMSP). (see 130 CMR 506.007).

The appellant is disabled and as such satisfies the categorical requirements for MassHealth eligibility. However, her monthly income of \$1,240.00 is over 133% of the FPL for a family group of one, \$1,239.00 which would render the appellant financially ineligible for MassHealth Standard. At hearing the MassHealth representative testified that notwithstanding this, the appellant would continue to be financially eligible for MassHealth Standard, however I am unable to find any regulatory authority for this for a member under the age of 65. The appellant has evidenced employment which may render her eligible for MassHealth CommonHealth as working disabled adult. The matter is REMANDED to MassHealth to determine continued eligibility for all programs.

For the foregoing reasons, this hearing is DENIED IN PART and REMAND IN PART.

Order for MassHealth

Remove aid pending. Determine eligibility for MassHealth Standard or CommonHealth, Commonwealth Care and the Health Safety Net. Send implementation notice only.

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.

Zohra Aziz
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar