

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2176575
Decision Date:	11/04/2021	Hearing Date:	10/04/2021
Hearing Officer:	Christine Therrien	Record Open to:	10/22/2021

Appearance for Appellant:



Appearance for MassHealth:

Lindsey Marek, Springfield



*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:	Eligibility
Decision Date:	11/04/2021	Hearing Date:	10/04/2021
MassHealth's Rep.:	Lindsey Marek	Appellant's Rep.:	
Hearing Location:	All parties appeared telephonically	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 8/11/21, MassHealth determined the appellant was no longer eligible for MassHealth Standard because she has more countable income than MassHealth benefits allow, and the appellant is now eligible for Buy-In (QI-Part B) (130 CMR 516.005 and Exhibit 1). The appellant filed this appeal in a timely manner on 8/25/21 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032). The hearing record was left open until 10/22/21, for submission and evidence from the appellant.

Action Taken by MassHealth

MassHealth determined the appellant's income exceeds the program limits for MassHealth Standard and changed the coverage to Buy-In (QI-Part B).

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.005, in determining the appellant's eligibility.

Summary of Evidence

The MassHealth representative testified that the appellant's income qualified her for the Buy-In program. The MassHealth representative testified the appellant's income is \$1,307 a month from Social

Security. The MassHealth representative testified that the income cutoff for MassHealth standard is 100% of the federal poverty level (FPL) and that is \$1,074 a month. The MassHealth representative testified that the asset limit for MassHealth standard is \$2,000, and the asset limit for Buy In is \$15,940. The MassHealth representative testified that an account that was not on the application was discovered with a balance of \$18,421. The MassHealth representative testified that this account has not been verified yet because the appeal was initiated. The MassHealth representative testified that a second application was received and on this application the appellant indicated she owns property. The MassHealth representative testified that MassHealth needs account verification to see what the appellant's assets are now and if she is still eligible for Buy-In. The appellant's representative testified that she was unaware of this other account. The record was left open to allow the appellant's representative time to submit verification of the appellant's assets and the deed to the property listed on the second application to determine eligibility for Buy-In. When the record closed the MassHealth representative indicated that no additional documentation was received from the appellant.

Findings of Fact

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

1. The appellant was determined no longer eligible for MassHealth Standard.
2. The appellant's income is \$1,307 a month from Social Security.
3. The income cutoff for MassHealth standard is 100% of the FPL which is \$1,074 a month.
4. The asset limit for MassHealth standard is \$2,000, and the asset limit for Buy-In is \$15,940.
5. An account that was not on the application was discovered with a balance of \$18,421.
6. The newly discovered account has not been verified yet because the appeal was initiated.
7. A second application was received that listed a property owned by the appellant.
8. The record was left open to allow the appellant's representative time to submit verification of the appellant's assets and the deed to the property listed on the second application to determine Buy-In eligibility.
9. No additional documentation was received from the appellant.

Analysis and Conclusions of Law

A non-institutionalized person age 65 and older may establish eligibility for MassHealth standard coverage if the countable income is less than or equal to 100% of the federal poverty level and the countable assets are \$2,000.00 or less for a single person (130 CMR 519.005).

The FPL for one person is \$1,074 per month (130 CMR 520.009). The appellant is receiving Social

Security and has a monthly countable unearned income of \$1,307. The appellant is therefore over 100% of the federal poverty level.

Countable assets are all assets that must be included in the determination of eligibility including bank accounts that the applicant or member has both ownership and access to the funds. MassHealth requires verification of the current balance of each account at application, during eligibility review and at times of reported changes (130 CMR 520.005(D)).

130 CMR 519.005: Community Residents Aged 65 and Older

(A) Eligibility Requirements Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals aged 65 and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable-income amount, as defined in 130 CMR 520.009, of the individual or couple is less than or equal to 100 percent of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(B) Financial Standards Not Met Except as provided in 130 CMR 519.005(C), individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004, meeting a deductible as described at 130 CMR 520.028 et seq., or both.

130 CMR 520.005: Ownership of Assets

(D) Verifications. Individual or joint ownership of any countable asset must be verified by a written document providing reasonable evidence of ownership. The MassHealth agency determines whether a verification is acceptable in accordance with 130 CMR 520.007(B)(3) and 130 CMR 520.005(D). Acceptable verification includes, but is not limited to, the following:

- (1) a title;
- (2) a purchase contract;
- (3) documents establishing ownership of joint bank accounts that demonstrate the following:
 - (a) the origin of the funds in a joint bank account, who opened the account, or whose money was used to open the account;
 - (b) federal and state tax records as to which joint account holders pay the tax on interest credited to the account as income;
 - (c) records of who makes deposits and withdrawals and, if appropriate, how withdrawn funds are spent;
 - (d) any evidence of written or oral agreements made between the parties at the time of the creation of the account;
 - (e) evidence of age, relationship, physical or mental condition, or place of residence of the co-holders when the applicant or member states that he or she does not own the account but is listed as a co-holder solely as a convenience to

- the other co-holder to conduct bank transactions on his or her behalf; and
- (f) why the applicant or member is listed on the account;
- (4) certification of ownership;
- (5) financial-institution records indicating the establishment of an account that accurately reflect the ownership interest of funds from the joint account;
- (6) other documentation that indicates ownership, asset value, and restrictions on access;
- (7) a notarized affidavit, sworn to under penalty of perjury, signed by all owners of the asset, and attesting to the distribution of ownership; or
- (8) the self-declaration of the individual who is applying solely for MassHealth Senior Buy-in for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-in for Qualifying Individuals (QI) both as described in 130 CMR 519.011: MassHealth Buy-in, provided that the MassHealth agency may use electronic data sources to verify eligibility, and at its discretion, request additional verification from the individual.

130 CMR 519.011: MassHealth Buy-in

(A) MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB).

- (1) Eligibility Requirements. MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) coverage is available to Medicare beneficiaries who meet the eligibility requirements of MassHealth Senior Buy-in coverage at 130 CMR 519.010 with the following exception: the countable income amount of the individual and his or her spouse must be greater than 130% of the federal poverty level and less than or equal to 150% of the federal poverty level.
- (2) Benefits. The MassHealth agency pays the cost of the monthly Medicare Part B premium for members who establish eligibility for MassHealth Buy-in for SLMB coverage in accordance with 130 CMR 519.011(A).
- (3) Begin Date. MassHealth Buy-in for SLMB coverage, in accordance with 130 CMR 519.011(A), begins with the month of application and may be retroactive up to three calendar months before the month of application.

(B) MassHealth Buy-in for Qualifying Individuals (QI).

- (1) Eligibility Requirements. MassHealth Buy-in for Qualifying Individuals (QI) coverage is available to Medicare beneficiaries who
 - (a) are entitled to hospital benefits under Medicare Part A;
 - (b) are not eligible for MassHealth benefits under the Medicaid State Plan;
 - (c) have a countable income amount (including the income of the spouse with whom he or she lives) that is equal to or greater than 150% of the federal poverty level and less than or equal to 165% of the federal poverty level;
 - (d) have *countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare & Medicaid Services*. Each calendar year the allowable asset limits shall be made available on MassHealth's website; and

(e) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000 or 130 CMR 517.000, as applicable.

(emphasis added)

The notice on appeal stated that the appellant was no longer eligible for MassHealth Standard and was determined eligible for Senior Buy-In because of her income. After the determination was issued the appellant submitted a second application which indicated she owned a property. Subsequent, to the determination on appeal MassHealth discovered a bank account in the appellant's name with a balance of \$18,421. As the asset limit for Buy-In is \$15,940 the appellant may not be eligible for Buy-In at this time. MassHealth requires verification of assets to determine the appellant's eligibility for Buy-In. The record was left open until 10/22/21, to allow the appellant's representative to submit the requested information to determine Buy-In eligibility. The appellant's representative did not submit the necessary verifications to further determine Buy-In eligibility.

The determination notice on appeal was for MassHealth Standard eligibility. The appellant has Social Security income of \$1,307 which is over 100% of the FPL, therefore, she is not eligible for MassHealth Standard.

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.

Christine Therrien
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104. [REDACTED]