

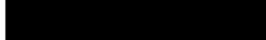
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2177192
Decision Date:	10/28/2021	Hearing Date:	10/12/2021
Hearing Officer:	Paul C. Moore	Record Closed:	10/22/2021

Appearance for Appellant:



Appearance for MassHealth:

Lisa Kwan, Chelsea MassHealth Enrollment Center (by telephone)

Vietnamese Interpreter:



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

APPEAL DECISION

Appeal Decision:	Dismissed	Issue:	Countable Assets
Decision Date:	10/28/2021	Hearing Date:	10/12/2021
MassHealth Rep.:	Lisa Kwan	Appellant Rep.:	██████
Hearing Location:	Board of Hearings (remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated September 2, 2021, MassHealth informed the appellant that he does not qualify for MassHealth because he has more countable assets than MassHealth benefits allow (Ex. 1). The appellant filed a timely appeal with the Board of Hearings (BOH) on September 16, 2021 (Ex. 2). Denial of assistance is a valid ground for appeal to BOH (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant is ineligible for a MassHealth benefit due to excess assets.

Issue

Did MassHealth correctly determine that the appellant does not qualify for MassHealth due to excess assets?

Summary of Evidence

A MassHealth representative from the Chelsea MassHealth Enrollment Center testified by telephone that the appellant, who is over age 65 and married, filed a MassHealth application for

persons over age 65 for community services. On his June 7, 2021 application, the appellant and his spouse attested that they had two bank accounts with [REDACTED], one containing \$3,602.00 and the other containing \$3,104.00. The MassHealth representative testified that MassHealth also ran a computerized asset match for the couple and located an account with [REDACTED] bearing the appellant's name containing \$3,210.00. The MassHealth representative testified that the total value of the couple's assets is \$9,917.00, as of June 14, 2021. According to the MassHealth representative, the couple's total assets may not exceed \$3,000.00 for the appellant to qualify for community MassHealth. Thus, on September 2, 2021, MassHealth generated a notice to the appellant denying his application, due to excess assets (Testimony, Ex. 1).¹

The MassHealth representative stated that the couple has no income (Testimony).

The MassHealth representative stated that if the appellant can provide updated bank statements reflecting that the couple's assets have been reduced, MassHealth can redetermine the appellant's eligibility (Testimony).

Through a Vietnamese interpreter, the appellant testified that when he and his wife arrived in the United States, they lived with the appellant's brother in Mississippi. The money in the [REDACTED] account belonged to his brother, according to the appellant. He testified that the [REDACTED] account was closed in early September 2021; with his request for a fair hearing, he enclosed a copy of a September 13, 2021 statement from [REDACTED] showing a "0" balance for that account, as well as two [REDACTED] bank statements, one with a balance of \$1,299.46, and the other with a balance of \$879.51 (Ex. 2A). However, the [REDACTED] statements are undated (*Id.*).

At the close of the hearing, the hearing officer agreed to forward the [REDACTED] and [REDACTED] statements to the MassHealth representative for her review, and agreed to give her one business day, or until October 13, 2021, to report back whether assets were reduced, and as of what date (Ex. 4).

On October 13, 2021, the MassHealth representative stated in an e-mail to the hearing officer that she could not make a determination of if and when assets were reduced, because the [REDACTED] statements were undated (Ex. 5). In view of this development, the hearing officer agreed to keep the record open until October 27, 2021 for the MassHealth representative to obtain more recent, dated bank statements from the appellant, and to report back as to the date assets were reduced, if at all (Ex. 6).

On October 22, 2021, the MassHealth representative sent an e-mail communication to the hearing officer, stating as follows:

¹ The MassHealth representative noted that the appellant's spouse is under age 65 and is not applying for MassHealth.

Just checking in to let you know that I was able to get in contact [with the appellant] and the bank statements were submitted. I've re-processed the case and the result is [MassHealth] Standard with a 06/01/2021 effective date.

(Ex. 7)

Findings of Fact

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

1. The appellant is over age 65 years old, and lives in a household of two (Testimony).
2. The appellant filed a community MassHealth application for senior benefits on June 7, 2021 (Testimony).
3. The appellant and his spouse had the following assets as of June 14, 2021: two bank accounts with [REDACTED], one containing \$3,602.00 and the other containing \$3,104.00; and a [REDACTED] account with the appellant's name, containing \$3,210.00 (Testimony, Ex. 1).
4. MassHealth sent a denial notice to the appellant on September 2, 2021, apprising him that the couple's total assets were \$9,917.00, of which the couple was allowed to keep \$3,000.00 in order for the appellant to qualify for MassHealth (Ex. 1).
5. The appellant filed a timely appeal of this denial notice with the BOH on September 16, 2021 (Ex. 2).
6. The appellant and his brother closed the [REDACTED] account in September, 2021 (Ex. 2A).
7. At the close of the hearing, the hearing officer agreed to keep the record of this appeal open until October 27, 2021 for the appellant and his spouse to produce copies of updated statements for their [REDACTED] accounts (Ex. 6).
8. On or about October 22, 2021, the MassHealth representative reported that the appellant and his spouse had reduced assets, and that the appellant was approved for MassHealth Standard benefits as of June 1, 2021 (Ex. 7).

Analysis and Conclusions of Law

MassHealth regulation 130 CMR 519.005(A), "Community Residents 65 Years of Age and Older," states as follows:

(A) Eligibility Requirements. **Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age 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: Countable-Income Amount, 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.**

...

(Emphasis added)

Next, according to MassHealth regulation 130 CMR 520.007, “Countable Assets:”

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 his or her 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.

The only issue in dispute is the value of the assets of the appellant and his spouse. As of June, 2021, the couple’s total assets exceeded the limit for the appellant to enroll in MassHealth Standard.

However, during a record-open period following the hearing, the appellant showed that he and his spouse reduced assets to \$3,000.00 or less, and the MassHealth representative reported back to the hearing officer that the appellant is eligible for MassHealth Standard retroactive to June 1, 2021.

The Fair Hearing Rules applicable in this proceeding, 130 CMR 610.051(B), “Adjustments Resolving Issues,” states in pertinent part:

The MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period. If the parties’ adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. BOH will not delay a fair hearing because a possible adjustment is under consideration, unless the appellant requests or agrees to such a delay.

Here, the only issue in dispute has been resolved, and the appellant is now enrolled in MassHealth Standard.

Therefore, this appeal is DISMISSED.

Order for MassHealth

None, other than to notify the appellant of his eligibility for MassHealth Standard, if MassHealth has not already done so.

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.

Implementation of this Decision

If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Shelly-Ann Lewis, Appeals Coordinator, Chelsea MEC

