

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2177816
<b>Decision Date:</b>	1/24/2022	<b>Hearing Date:</b>	12/14/2021
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	01/18/2022

**Appearances for Appellant:**



**Appearance for MassHealth:**

Joshua Bailey, Springfield MassHealth  
Enrollment Center (by telephone)



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

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility, Countable Income
<b>Decision Date:</b>	1/24/2022	<b>Hearing Date:</b>	12/14/2021
<b>MassHealth Rep.:</b>	Joshua Bailey	<b>Appellant Rep.:</b>	██████████
<b>Hearing Location:</b>	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

By a notice dated July 13, 2021, MassHealth notified the appellant that his coverage would change to MassHealth Senior Buy-In because his assets are too high to get MassHealth Standard, and that he has more countable income than MassHealth Standard benefits allow (Exh. 1). The appellant filed a timely appeal of the denial with the Board of Hearings (BOH) on October 13, 2021 (130 CMR 610.015; Exh. 2).<sup>1</sup> A change in the scope or amount of MassHealth assistance is valid grounds for appeal to the BOH (130 CMR 610.032).

At the close of the December 14, 2021 appeal hearing, the hearing officer left the record open until January 4, 2022 for the appellant to submit additional evidence, and until January 18, 2022 for MassHealth to respond. Subsequently, the hearing officer extended the record-open period for the appellant's submission until January 18, 2022. On that date, no additional evidence had been received, and the hearing officer closed the hearing record.

---

<sup>1</sup> MassHealth Eligibility Operations Memo 20-09, "MassHealth Response to Coronavirus Disease 2019 (COVID-19)," issued April 7, 2020, states in relevant part: "In response to the current Coronavirus Disease 2019 (COVID-19) national emergency, MassHealth is implementing the following protocols to support the public health efforts to expedite medical care and maintain care for both new MassHealth applicants and existing members. Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of the month in which such national emergency period ends: All appeal hearings will be telephonic; and **Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.**"

## **Action Taken by MassHealth**

MassHealth determined that the appellant's coverage would change from MassHealth Standard to MassHealth Senior Buy-In due to assets and income.

## **Issue**

The issue on appeal is whether MassHealth correctly downgraded the appellant's coverage from MassHealth Standard to Senior Buy-In.

## **Summary of Evidence**

A MassHealth representative from the Springfield MassHealth Enrollment Center testified by telephone that the appellant is over age 65, and lives in a household of two. The appellant was previously enrolled in MassHealth Standard. The appellant's gross monthly income is \$1,552.00 in Social Security benefits, and his spouse's gross monthly income is \$355.00 in SSI benefits. MassHealth received these figures from a data match with the federal Social Security Administration (SSA). Therefore, the household's gross monthly income is \$1,907.00.<sup>2</sup> The MassHealth representative testified that for the appellant to continue on MassHealth Standard, his gross monthly household income could not exceed 100% of the 2021 federal poverty level (FPL) for a household of two, or \$1,420.00 per month. Since the appellant's gross monthly income exceeds this amount, his coverage was downgraded to MassHealth Senior Buy-In. The threshold for MassHealth Senior Buy-In coverage is 130% of the 2021 FPL for a household of two, or \$1,913.00 per month. The appellant's household income is less than this figure. Under this benefit, according to the MassHealth representative, the appellant's Medicare Part B premium of approximately \$150.00 per month is paid by MassHealth (Testimony, Exh. 1).

The appellant and his spouse did not contest the gross income figures on file with MassHealth.

The MassHealth representative added that the couple's assets are not at issue. The MassHealth representative testified that the appellant may also qualify for MassHealth Standard by meeting a six-month deductible. The deductible period is July 13, 2021 through February 1, 2022. In order to meet this deductible, the appellant would need to submit copies of paid or unpaid medical bills incurred during that period, or if incurred prior to that period, then bills paid during the deductible period. This would include payments for medical services, medical equipment or products, prescriptions, co-payments or deductibles in place in other health plans, such as Medicare (Testimony).

In this case, the appellant's six-month deductible is \$7,230.00 (Exh. 1). The six-month deductible

---

<sup>2</sup> However, the July 13, 2021 MassHealth notice states that the appellant's unearned income is \$1,875.00 monthly (Exh. 1).

was calculated by subtracting an income standard of \$650.00 from the appellant's gross monthly household income and multiplying by six. Per the MassHealth notice, the appellant's coverage downgrade occurred on July 27, 2021 (*Id.*).

The appellant's attorney testified by telephone that the appellant commenced treatment with a dentist in June, 2021 for a complete lower denture. An initial impression was taken, followed by a final impression. MassHealth covered these services. When the appellant went back to the dentist to have the final denture placed, he learned that his MassHealth Standard coverage was discontinued. Therefore, he never received his denture. The appellant was also present by telephone, and he did not recall the exact dates of his visits to the dentist. The appellant's attorney did not know whether MassHealth had granted prior authorization for the appellant's complete lower denture (Testimony).

The appellant's attorney asserted that there is an "estoppel" argument that MassHealth should cover the cost of the appellant's denture, since the treatment occurred before the appellant's coverage was downgraded.

At the close of the hearing, the hearing officer agreed to leave the record open for three weeks for the appellant's attorney to submit records from the appellant's dentist's office reflecting on what dates the appellant received treatment, and what portion of this treatment, if any, was covered by MassHealth (Exh. 4). In addition, the hearing officer asked the appellant's attorney to provide copies of paid or unpaid medical bills incurred during the deductible period, in order for MassHealth to evaluate whether the appellant has met the \$7,230.00 deductible to get back on MassHealth Standard (*Id.*). The hearing officer also agreed to allow MassHealth an additional two weeks, or until January 18, 2022, to report back whether the appellant had met his deductible (*Id.*).

Nothing was received from the appellant's attorney by January 4, 2022. On January 6, 2022, the hearing officer received e-mail correspondence from the appellant's attorney seeking a "reschedule of an appointment" scheduled for January 18, 2022 and advising that he had contacted the appellant's dental office to request records, but had not yet received them (Exh. 5).

By e-mail dated January 6, 2022, the hearing officer advised the parties that he would extend the record-open period for the appellant's submission until January 18, 2022, but with no further extensions (Exh. 6).

No additional documentation or e-mail correspondence was received from the appellant's attorney.

### **Findings of Fact**

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

1. The appellant is over age 65, and lives in the community in a household of two

(Testimony).

2. The appellant was previously enrolled in MassHealth Standard (Testimony).
3. In July, 2021, MassHealth learned through a data match with the SSA that the appellant's gross monthly income is \$1,552.00 in Social Security benefits, and his spouse's gross monthly income is \$355.00 in SSI benefits, or \$1,907.00 monthly (Testimony, Exh. 1).
4. By a notice dated July 13, 2021, MassHealth notified the appellant that his coverage would change to MassHealth Senior Buy-In effective July 27, 2021 because his assets are too high to get MassHealth Standard, and that he has more countable income than MassHealth Standard benefits allow (Exh. 1).
5. The July 13, 2021 notice also apprised the appellant that may qualify for MassHealth Standard by meeting a six-month deductible for the period July 13, 2021 through February 1, 2022, in the amount of \$7,230.00, calculated by subtracting an income standard of \$650.00 from the appellant's gross monthly household income, and multiplying by six (Exh. 1).
6. The appellant, through his attorney, filed a timely appeal of this notice with the BOH on October 13, 2021 (Exh. 2).
7. The appellant and his spouse did not contest the gross income figures on file with MassHealth.
8. 100% of the FPL for a household of two in 2021 was \$1,452.00 monthly (86 *Federal Register* 7732, pp. 7732-7734 (February 1, 2021)).
9. 130% of the FPL for a household of two in 2021 was \$1,913.00 monthly (86 *Federal Register* 7732, pp. 7732-7734 (February 1, 2021)).
10. The appellant commenced treatment with a dentist to obtain a full lower denture in approximately June, 2021 (Testimony).
11. After the date of the appellant's MassHealth downgrade, July 27, 2021, the appellant's dental office failed to deliver the appellant's denture to him (Testimony).
12. At the close of the hearing, the hearing officer left the record of the appeal open for the appellant to provide records of his dental treatment, as well as copies of any paid or unpaid medical bills that could be used to meet the deductible (Exh. 4).
13. Nothing was received.

## Analysis and Conclusions of Law

Pursuant to MassHealth regulation 130 CMR 519.005, “Community Residents 65 Years of Age or Older:”

**(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% 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: Asset Reduction, meeting a deductible as described at 130 CMR 520.028: Eligibility for a Deductible through 520.035: Conclusion of the Deductible Process, or both.**

(Emphasis added)

The evidence shows that the appellant and his spouse had countable household income in 2021 exceeding 100% of the FPL for a household of two. Therefore, the appellant is not eligible for MassHealth Standard as of July 27, 2021.

The appellant may meet a six-month deductible and qualify for MassHealth Standard effective July 13, 2021; MassHealth calculated the deductible by subtracting an income standard of \$650.00 from the appellant’s gross monthly household income, and multiplying by six. This calculation was correct pursuant to MassHealth regulation 130 CMR 520.030.

Finally, MassHealth determined the appellant is eligible to have his Medicare Part B monthly premium paid by MassHealth, pursuant to 130 CMR 519.010, “MassHealth Senior Buy-In,” which states in relevant part:

**(A) Eligibility Requirements. (Qualified Medicare Beneficiaries/QMB) coverage is available to Medicare beneficiaries who**

**(1) are entitled to hospital benefits under Medicare Part A;**

**(2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 130% of the federal poverty level;**

**(3) 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 and Medicaid Services. Each calendar year the allowable asset limits shall be made available on MassHealth's website; and**

**(4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000: Health Care Reform: MassHealth: Universal Eligibility Requirements or 130 CMR 517.000: MassHealth: Universal Eligibility Requirements, as applicable.**

**(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B for members who establish eligibility for MassHealth Senior Buy-in coverage in accordance with 130 CMR 519.010(A).**

(Emphasis added)

The evidence shows that the appellant's 2021 household income was less than 130% of the FPL for a household of two. The appellant is therefore eligible for MassHealth Senior Buy-In.

There is no dispute that the appellant's MassHealth Standard coverage ended on July 27, 2021. The appellant has not established that he has met a six-month deductible allowing his coverage to be reinstated as of that date, despite being given an opportunity to submit evidence of same following the appeal hearing.

There is no reliable information in the record about when the appellant started his dental treatment, why his dentist ceased to treat him, and why his denture was not delivered to him. The appellant's argument that MassHealth is "estopped" from denying payment for any treatment after July 27, 2021 must fail, as there is no evidence of the dates the appellant was treated by the dentist or that MassHealth failed to pay any dental claims.

For all these reasons, 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.

---

Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Dori Mathieu, Appeals Coordinator, MassHealth Enrollment Center, 88 Industry Avenue,  
Springfield, MA 01104

[REDACTED]