

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2178142
Decision Date:	12/2/2021	Hearing Date:	11/30/2021
Hearing Officer:	Samantha Kurkijy		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jonathan Gonzalez—Chelsea MEC

Interpreter:
Ivan, ID # 247771



*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:	Denied	Issue:	Eligibility—Assets
Decision Date:	12/2/2021	Hearing Date:	11/30/2021
MassHealth Rep.:	Jonathan Gonzalez	Appellant Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	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 October 6, 2021, MassHealth informed the appellant that his coverage would change to MassHealth Senior Buy-In benefits as of October 20, 2021 due to excess countable assets. (Exhibit 1.) The appellant filed an appeal in a timely manner on October 25, 2021. (Exhibit 2.) A determination regarding the scope of assistance is a valid ground for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth informed the appellant that his coverage would change to MassHealth Senior Buy-In benefits due to excess countable assets.

Issue

Whether MassHealth was correct in changing the appellant's coverage to MassHealth Senior Buy-In benefits.

Summary of Evidence

The appellant is a married individual who is over 65-years-old and was receiving MassHealth Standard benefits. The MassHealth representative testified that the appellant submitted a renewal application to MassHealth on July 22, 2021. On July 23, 2021, MassHealth issued a Request for Information which included a request for bank statements and the response to a question on the renewal application that was left unanswered. On August 9, 2021, MassHealth received two bank statements with end dates of August 5, 2021 and the response to the unanswered question. The information submitted by the appellant was processed, and on October 6, 2021, MassHealth informed the appellant that his benefits would change to MassHealth Senior Buy-In on October 20, 2021 due to excess countable assets. The appellant submitted an appeal on October 25, 2021.

The MassHealth representative testified that in order for a married individual to qualify for MassHealth Standard benefits, the couple's assets must not exceed \$3,000. He testified that after subtracting Social Security income from the first bank account ("BA1"), the balance was \$364.23.¹ He further testified that after subtracting the stimulus payment of \$1,400 from the second bank account ("BA2"), the balance was \$3,776.86. As the total balance of BA1 and BA2 (\$4,141.19) exceeds \$3,000, the appellant's coverage changed from MassHealth Standard benefits to MassHealth Senior Buy-In benefits.

The appellant testified that he does not have the amount of money cited by the MassHealth representative and repeatedly suggested that the MassHealth representative and hearing officer come to his house and go to the bank with him to check his accounts. He testified that he is not exaggerating or lying about his bank balance. The appellant testified that his wife's assets should not be involved with the issue on appeal because he is responsible only for himself. He testified he has never been in trouble before and maintained that the MassHealth representative requested the hearing.² He confirmed that he is married and living in the same home as his spouse, but stated they have nothing to do with each other. The appellant referenced a letter he sent to MassHealth, indicating how much money he has. A letter relating to one of the appellant's bank accounts reports that the balance of BA1 is \$438.33 as of October 22, 2021. The appellant did not submit updated documentation relating to BA2.

The MassHealth representative explained that if the appellant is married and living with his spouse, the regulations require him to count both of their assets. He testified that if the balances of the appellant's bank accounts have changed, he may provide updated bank statements to MassHealth

¹ The MassHealth representative misspoke, as the correct balance should be \$364.33. (Exhibit 6.)

² The hearing officer explained to the appellant that he is not in trouble and does not owe MassHealth money, and that the discussion was about the asset limits used to determine eligibility for MassHealth Standard benefits. The hearing officer also explained to the appellant that he was the person who requested the hearing, not the MassHealth representative.

so that MassHealth can make a new eligibility determination.

Findings of Fact

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

1. The appellant is over 65-years-old.
2. The appellant was receiving MassHealth Standard benefits.
3. On July 22, 2021, the appellant submitted a renewal application to MassHealth.
4. On July 23, 2021, MassHealth issued a Request for Information which included a request for bank statements and the response to a question on the renewal application that was left unanswered.
5. On August 9, 2021, MassHealth received two bank statements with end dates of August 5, 2021 and the response to the unanswered question.
6. On October 6, 2021, MassHealth informed the appellant that his benefits would change to MassHealth Senior Buy-In as of October 20, 2021 due to excess countable assets.
7. The appellant submitted a timely appeal on October 25, 2021.
8. The appellant is married and lives in the same home as his spouse.
9. After subtracting Social Security income from BA1, the balance was \$364.33.
10. After subtracting the stimulus payment of \$1,400 from BA2, the balance was \$3,776.86.
11. The total balance of BA1 and BA2 is \$4,141.19.
12. The asset limit for MassHealth benefits for a married couple is \$3,000.
13. The appellant has excess countable assets of \$1,141.19.
14. A letter relating to one of the appellant's bank accounts reports that the balance of BA1 is \$438.33 as of October 22, 2021. The appellant did not submit updated documentation relating to BA2.

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.003,

(A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits:

- (1) for an individual — \$2,000; and
- (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

Regulation 130 CMR 520.002(A) reads as follows:

(A) Community Residents.

(1) Spouses Living Together. In the determination of eligibility for MassHealth, the total countable-income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit, unless one spouse is covered by MassHealth under a home- and community-based services waiver, as described in 130 CMR 519.007(B): *Home- and Community-based Services Waiver-Frail Elder*.

(2) Spouses Living Apart. When spouses live apart for reasons other than admission to a medical institution, their assets and income are considered mutually available only through the end of the calendar month of separation.

Because the appellant and his spouse live together and no evidence was presented to indicate either was covered under a waiver, their countable assets are considered together. The MassHealth representative provided evidence showing that the appellant and his spouse's countable assets equal \$4,141.09. This amount exceeds the \$3,000 asset limit prescribed by 130 CMR 520.003(A)(2). The appellant provided evidence showing an updated balance for BA1 but did not provide any documentation showing an updated balance for BA2. Therefore, the evidence indicates that MassHealth did not err in determining that the appellant's assets exceed the limit for MassHealth Standard benefits.

The requirements for MassHealth Senior Buy-In are as follows:

(A) Eligibility Requirements. (Qualified Medicare Beneficiary (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 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).

(C) Begin Date. The begin date for MassHealth Senior Buy-In coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

(130 CMR 519.010.)

The appellant did not dispute his eligibility for MassHealth Senior Buy-In benefits.

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.

Samantha Kurkky
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: Nancy Hazlett