

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in Part	Appeal Number:	2179199
Decision Date:	2/17/2022	Hearing Date:	01/14/2022
Hearing Officer:	Susan Burgess-Cox	Record Open to:	02/04/22

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Samantha Bybee



*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:	Approved in Part	Issue:	Eligibility
Decision Date:	2/17/2022	Hearing Date:	01/14/2022
MassHealth's Rep.:	Samantha Bybee	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	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 November 23, 2021, MassHealth notified the appellant that her coverage will change to Buy-In (SLMB-Part B) as her income and/or assets are too high to get MassHealth Standard; and her income is too high to get MassHealth Senior Buy-In. (130 CMR 519.000; Exhibit 1). The appellant needs to meet a deductible in the amount of \$6,498 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on December 6, 2021. (130 CMR 610.015; Exhibit 2). A determination regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that she is eligible for Buy-In and has to meet a deductible of \$6,498 to become eligible for MassHealth Standard.

Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility.

Summary of Evidence

The appellant is in a family group of one and over 65-years old. MassHealth determined that the appellant has a monthly gross income of \$1,625. MassHealth applied a \$20 deductible resulting in countable income of \$1,605. This income amount placed the appellant at 144% of the federal poverty level making her eligible for MassHealth Buy-In.

Prior to the decision on appeal, the appellant was determined eligible for MassHealth Standard as the appellant did not report any income or benefits to MassHealth. In April 2021, MassHealth received information regarding the appellant's monthly income that could have resulted in a change in coverage. However, as part of the ongoing response to the COVID-19 pandemic, MassHealth temporarily suspended most ongoing maintenance processes. (Eligibility Operations Memo 20-09; April 2020). This suspension resulted in a continuation of the appellant's MassHealth Standard coverage. In June 2021, based on amendments to state protocols implemented in response to the COVID-19 Federal Public Health Emergency (PHE), MassHealth restarted many of the processes previously suspended. (Eligibility Operations Memo 21-09, June 2021). As a result of this protocol change, the agency began making some eligibility determinations.

On November 23, 2021, the appellant's eligibility changed due to the information regarding her income as well as revised guidelines that group benefits in Tiers. (Eligibility Operations Memo 21-17, November 2021). These revised guidelines allow members to move between coverage types if they are in the same federally defined Tier. Tier I includes Minimal Essential Coverage (MEC) such as MassHealth Standard, CommonHealth, CarePlus, Family Assistance and Medicare Savings Programs such as MassHealth Buy-In or Senior Buy-In. (Eligibility Operations Memo 21-17, November 2021). The decision made by MassHealth in November 2021 resulted in a change in the appellant's coverage from MassHealth Standard to MassHealth Buy-In which are within the same Tier. (Testimony; Eligibility Operations Memo 21-17).

At the time of the eligibility decision, MassHealth considered monthly income from the Social Security Administration in the amount of \$1,220 as well as monthly

benefits from the Massachusetts Department of Veteran's Services in the amount of \$405 each month. The MassHealth representative noted at hearing that the agency does not count certain types of benefits provided by the Massachusetts Department of Veteran's Services such as those received through M.G.L. ch. 115 which includes benefits paid to a veteran or dependent by the city or town wherein her or she resides.

The appellant did not dispute the income amount received by the Social Security Administration. The appellant testified that the income from the Department of Veteran's Services was from the city where she resides so may fall under the category noted by MassHealth as non-countable income. The record was held open to provide the appellant with the opportunity to verify the type of income she receives from the Massachusetts Department of Veteran's Services. (Exhibit 4).

During the record open period, the appellant provided a summary of benefits from the Department of Veteran's Services. (Exhibit 5). The summary states that the benefits are through M.G.L. ch 115. and lists a benefit amount of \$303. (Exhibit 5).

The MassHealth representative reviewed the records presented by the appellant and determined that the benefits received through M.G.L. ch. 115 are noncountable. (Exhibit 6). As a result of this change, MassHealth determined that the appellant's only countable income was the \$1,292 she receives from the Social Security Administration.¹ (Exhibit 6). The MassHealth representative noted that this countable income is greater than 100% but less than 130% of the federal poverty level. (Exhibit 6). This change resulted in a new agency determination making the appellant eligible for MassHealth Senior Buy-In.

Findings of Fact

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

1. The appellant is over 65-years old.
2. The appellant has a family group of one.

¹ This change in the appellant's Social Security benefit amount from the time of the eligibility decision on appeal was likely due to cost-of-living adjustments (COLA) implemented by the Social Security Administration in December 2021. (42 U.S.C. § 415(i)). The appellant has aid pending during this appeal so this change will not impact the benefits received by the appellant during the appeal. Additionally, this new benefit amount does not impact the agency's final eligibility decision. This hearing decision will utilize the new benefit amount for efficiency purposes.

3. MassHealth initially determined the appellant ineligible for MassHealth Standard but eligible for MassHealth Buy-In due to agency records reflecting total monthly countable income of \$1,605.
4. The total monthly income initially included monthly benefits from the Massachusetts Department of Veteran's Services and the Social Security Administration.
5. The monthly benefits from the Massachusetts Department of Veteran's Services are provided under M.G.L. ch. 115 by the city where the appellant resides.
6. At the time of this decision, the appellant receives \$1,292 from the Social Security Administration.
7. During the appeal, MassHealth determined that the appellant is eligible for MassHealth Senior Buy-In.

Analysis and Conclusions of Law

The regulations from 130 CMR 515.000 through 522.000 provide the MassHealth requirements for persons who are institutionalized, 65 years of age or older, or who would be institutionalized without community-based services in accordance with all applicable laws, including Title XIX of the Social Security Act. The appellant is 65 years of age or older. Therefore, the regulations at 130 CMR 515.000 through 522.000 are utilized in this decision.

Financial eligibility for MassHealth is based on financial responsibility, countable income, and countable assets. (130 CMR 520.001). In determining eligibility for MassHealth, the total countable-income amount and countable assets of the individual is compared to an income standard and asset limit. (130 CMR 520.002(A)). An individual and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable income amount. (130 CMR 520.009(A)(1)). In determining gross monthly income, MassHealth multiplies the average weekly income by 4.333 unless the income is monthly. (130 CMR 520.009(A)(1)). For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility. (130 CMR 520.009(A)(2)).

The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024.

(130 CMR 520.009(A)(4)). MassHealth considers both earned income and unearned income as countable in determining eligibility. (130 CMR 520.009). The appellant only receives unearned income.

Unearned income includes, but is not limited to, Social Security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. (130 CMR 520.009(D)). The applicant or member must verify gross unearned income. (130 CMR 520.009(D)).

Certain types of income are not considered in determining financial eligibility of an applicant or member. (130 CMR 520.015). This noncountable income includes certain types of veteran's benefits including those based on need provided by municipalities to resident veterans. (130 CMR 520.015(E)). During the record open period, MassHealth reviewed documents from the appellant's municipality and determined that the veteran's benefits from the municipality are not countable. (130 CMR 520.015(E)). This new eligibility decision is correct.

The appellant did not dispute that her family group of 1 receives income from the Social Security Administration. As noted above, this benefit amount increased from the time of the eligibility decision on appeal to the time of this hearing decision due to an annual cost-of-living adjustment (COLA) made by the Social Security Administration. (42 USC § 415(i)). This COLA does not impact the appellant's eligibility prior to its implementation. The benefit amount prior to the COLA as well as the one after would result in the same eligibility determination.

For individuals residing in the community who are over 65-years of age, MassHealth allows a standard deduction of \$20 from total gross unearned income per individual. (130 CMR 520.013). This deduction results in a countable income of \$1,272 for the appellant. MassHealth allows deductions for unearned income but only under certain circumstances which include receiving personal-care attendant services or being determined by MassHealth, through an initial screening or prior authorization, that such services are needed. (130 CMR 520.013). The appellant did not indicate at hearing or in anything submitted to MassHealth that she receives or needs personal care attendant services. MassHealth made the correct deductions to the appellant's income.

Pursuant to 130 CMR 519.005(A), 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.

As noted by the MassHealth representative, the appellant's monthly income exceeds 100% of the federal-poverty level for a family of one. (130 CMR 520.000). Therefore, the appellant is not eligible for MassHealth Standard.

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 519.005(B)). MassHealth correctly determined that to become eligible the appellant would have to meet a deductible. The appellant did not present bills to apply toward a deductible.

MassHealth Senior Buy-In 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. (130 CMR 519.010(A)).

As noted by the MassHealth representative during the record open period, the appellant's income from the Social Security Administration is less than 130% of the federal-poverty level making her eligible for the MassHealth Senior Buy-In. (130 CMR 519.010(A)).

Under the MassHealth Senior Buy-In, MassHealth pays for Medicare Part A and Part B premiums as well as deductibles and coinsurance under Medicare Parts A and B. (130 CMR 519.010). This new coverage provides more benefits than the decision on appeal approving the appellant for the MassHealth Buy-In which pays

for the cost of the monthly Medicare Part B premium. While both the Senior Buy-In and Buy-In programs provide less coverage than MassHealth Standard, the new eligibility decision increases the appellant's benefit level and the appellant did not challenge the information presented by MassHealth regarding her Social Security benefits. The income from the Social Security Administration impacts the appellant's eligibility for MassHealth Standard. The eligibility decision made by MassHealth during the appeal is correct.

This appeal is approved in part.

Order for MassHealth

Release the appellant's aid pending and process an eligibility decision for MassHealth Senior Buy-In.

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 this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

CC:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290