

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2200336
<b>Decision Date:</b>	2/17/2022	<b>Hearing Date:</b>	02/11/2022
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Tambria Pioggia



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	2/17/2022	<b>Hearing Date:</b>	02/11/2022
<b>MassHealth's Rep.:</b>	Tambria Ploggia	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<b>Aid Pending:</b>	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 January 3, 2022, MassHealth notified the appellant that he is not eligible for MassHealth because he has more countable income than MassHealth allows. (130 CMR 519.000; Exhibit 1). The appellant needs to meet a deductible in the amount of \$6,815 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant appealed this decision in a timely manner on January 14, 2022. (130 CMR 610.015; Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that he is not eligible for MassHealth and has a deductible of \$6,815 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 a disabled adult over 65-years of age and has a gross monthly income of \$1,958 through benefits received from the Social Security Administration. This places the appellant at approximately 173% of the federal poverty level. Since appellant's income exceeds 165% of the federal poverty level which is \$1,771 each month for a family group of one, the agency determined that he is not eligible for MassHealth. The MassHealth representative testified that the appellant could become eligible if he presents medical bills to meet a deductible in the amount of \$6,815 or can provide information showing that he is working at least 40 hours each month. (Testimony; Exhibit 1).

The appellant appeared by telephone and did not dispute the gross income amount presented by MassHealth. The appellant asked MassHealth to consider deductions made by the Social Security Administration as well as expenses, such as monthly rent, in determining eligibility.

The MassHealth representative responded that MassHealth looks to the gross income of an applicant or member and does not consider deductions for Medicare premiums or non-medical expenses in determining eligibility. The MassHealth representative noted again that the appellant could present medical bills to meet a deductible and qualify for MassHealth Standard as indicated on the notice. The appellant did not provide testimony or evidence regarding the receipt of any home-based services.

The MassHealth representative noted at the hearing that the appellant has not been eligible for MassHealth in the past. He has been eligible for the Health Safety Net. The appellant has not completed an eligibility review since 2016. The agency received updated information from the Social Security Administration which resulted in the issuance of the notice on appeal. The MassHealth representative provided information regarding eligibility for MassHealth CommonHealth noting that the appellant could become eligible for that coverage if he is working at least 40 hours each month.

The hearing concluded somewhat abruptly as the appellant became abrasive and was not offering testimony or evidence relevant to the eligibility decision at issue.

## **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 gross monthly income of \$1,958 each month.
3. The appellant has not received certification that he is in need of nursing facility services or eligible to receive certain services at home.

## **Analysis and Conclusions of Law**

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. (130 CMR 515.002). 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002(B)). The appellant falls under these requirements since he is over 65-years old. (130 CMR 515.002). Under these requirements, the type of coverage for which a person is eligible is based on their income and assets, as described in 130 CMR 519.000 and 520.000. (130 CMR 515.003(B)).

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)). These include income to which the applicant, member, or spouse would be entitled whether or not actually received when

failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. (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)). The appellant did not dispute that he has a gross benefit amount of \$1,958 each month from the Social Security Administration.

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 \$1,938 for the appellant. MassHealth allows additional 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 appeared by telephone on his own and did not indicate that he is in need of 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.

The appellant's countable income of \$1,938 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 in the amount of \$6,815.

Therefore, until he meets that deductible, the appellant is not eligible for MassHealth Standard.

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 for MassHealth benefits. (130 CMR 519.010(A)).

Since the appellant's income exceeds 130% of the federal-poverty level, he is not eligible for the MassHealth Senior Buy-In. (130 CMR 519.010(A)).

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: MassHealth Senior Buy-In (Qualified Medicare Beneficiaries (QMB)) 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. (130 CMR 519.011(A)).

MassHealth Buy-In for Qualifying Individuals (QI) coverage available to Medicare beneficiaries who

- 1) are entitled to hospital benefits under Medicare Part A;
- 2) are not eligible for MassHealth benefits under the Medicaid State Plan;
- 3) 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;
- 4) 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
- 5) meet the universal requirements of MassHealth benefits in accordance

with 130 CMR 503.000 or 517.000, as applicable.<sup>1</sup> (130 CMR 519.011(B)).

Since the appellant's income exceeds 165% of the federal poverty level, he is not eligible for the MassHealth Buy-In.

Pursuant to 130 CMR 519.012, MassHealth CommonHealth for working disabled adults is available to community residents aged 65 and older in the same manner as they are available to those under age 65. This means they must meet the requirements of 505.004(B)(2), (3), and (5) to be eligible for CommonHealth. (130 CMR 519.012(A)(1)). These requirements include:

- (2) being employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;
- (3) being permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001; and
- (5) being ineligible for MassHealth Standard. (130 CMR 519.012; 130 CMR 505.004(B)).

As MassHealth determined correctly, the appellant does not meet these requirements as he did not provide verification or testimony to demonstrate that he is employed at least 40 hours each month. (130 CMR 519.012; 130 CMR 505.004(B)).

The appellant can provide verification of employment at any time and MassHealth can make a new eligibility determination. Additionally, the appellant could become eligible for MassHealth Standard if he can provide medical bills to meet the deductible.

The decision made by MassHealth was correct.

This appeal is denied.

## **Order for MassHealth**

None.

---

<sup>1</sup> The numbering format for this section of the regulations was modified for purposes of continuity within the hearing decision.

## **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.

---

Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186