

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2201497

**Decision Date:** 4/04/2022

**Hearing Date:** 03/31/2022

**Hearing Officer:** Patricia Mullen

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Souza, Taunton MEC



*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>	Financial Eligibility
<b>Decision Date:</b>	4/04/2022	<b>Hearing Date:</b>	03/31/2022
<b>MassHealth's Rep.:</b>	Kelly Souza, Taunton MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center		

## 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 February 15, 2022, MassHealth changed the appellant's six month deductible because MassHealth determined that the appellant's income exceeds the limit for MassHealth Standard. (see 130 CMR 520.028 and Exhibit 1). The appellant filed this appeal in a timely manner on February 28, 2022. (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth determined the appellant has a six month deductible of \$4,880.00 to be met before eligibility for MassHealth Standard could be established.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.028, in determining that the appellant has a six month deductible of \$4,880.00.

## Summary of Evidence

The appellant testified telephonically. MassHealth was represented telephonically by a worker from the Taunton MassHealth Enrollment Center (MEC). The MassHealth representative testified that the appellant is over age 65 and lives in a one person household in the community. The MassHealth representative stated that the appellant receives \$1,381.00 in gross monthly Social Security income from which \$20.00 is deducted to determine MassHealth countable income of \$1,361.00. The MassHealth representative testified that the income limit for MassHealth Standard for persons age 65 and older living in the community is 100% of the federal poverty level, or \$1,133.00 a month for a family size of one. The MassHealth representative stated that the appellant's countable income exceeds \$1,133.00 a month and thus he is not financially eligible for MassHealth Standard. The MassHealth representative stated that the appellant is eligible for MassHealth Buy In and MassHealth is paying his Medicare premium every month.

The MassHealth representative stated that MassHealth received a Buy In application from the appellant on December 10, 2021 and on February 18, 2022 and the appellant is eligible for Buy In. The MassHealth representative stated that MassHealth sent the appellant a review form on June 9, 2021 and it was not returned. The MassHealth representative noted that the appellant was previously open on a category 7 MassHealth case, which is supposed to be temporary MassHealth for former SSI recipients while MassHealth determines eligibility, however the appellant's category 7 case remained open from 2008 to December, 2021. (Exhibit 4). The MassHealth representative stated that even though the appellant's income exceeds the limit for MassHealth, he still needs to complete and submit a MassHealth Senior application with verification of assets. The MassHealth representative stated that she would send the appellant a MassHealth application in the mail.

MassHealth calculated a 6 month deductible of \$4,880.00. (Exhibit 1). The deductible must be met every 6 months before eligibility for MassHealth could be established. (Exhibit 1). The MassHealth representative stated that the appellant could apply for a Frail Elder Waiver through his local elder services agency if he needs assistance in the home. The MassHealth income limit is higher for individuals who qualify for a Frail Elder Waiver. (Testimony). The MassHealth representative gave the appellant the number to contact for the elder services agency in his area, 978-537-7411.

The appellant testified that he thought MassHealth was based on the need for assistance due to health issues. The appellant stated that he was receiving housekeeping services through his managed care provider under MassHealth and he needs such assistance. The appellant noted that \$66.90 is taken out of his Social Security check every month for past due child support. The appellant stated that he applied for the Frail Elder Waiver at his local senior center about a month ago but has not heard anything back. The MassHealth representative advised the appellant to contact the senior center again as well as the elder services agency to see if a nurse evaluator was scheduled to come to his house and evaluate him for the Frail Elder Waiver.

## **Findings of Fact**

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

1. The appellant is over age 65 and lives in a one person household in the community.
2. 100% of the federal poverty level is \$1,133.00 a month for a family size of one.
3. The appellant receives gross monthly Social Security income of \$1,381.00.
4. The appellant has Medicare coverage.

## **Analysis and Conclusions of Law**

The regulations at 130 CMR 515.000 through 520.000 provide the requirements for MassHealth eligibility for persons age 65 and older. See 130 CMR 515.002. A non-institutionalized person age 65 and older may establish eligibility for MassHealth Standard coverage if the countable income is less than or equal to 100% of the federal poverty level. 130 CMR 519.005. 100% of the federal poverty level for a family of one is \$1,133.00 per month. The appellant's gross unearned income totals \$1,381.00 per month. After allowing the \$20.00 deduction for unearned income, the appellant's countable unearned income is \$1,361.00. This amount exceeds 100% of the federal poverty level for a family of one. The appellant is not financially eligible for MassHealth Standard at this time.

The appellant must meet a six month deductible before MassHealth eligibility can be re-determined<sup>1</sup>. (130 CMR 520.028). The appellant's countable income for the deductible calculation is \$1,361.00. The MassHealth Income Standard applicable to an individual age 65 or older residing in the community is \$522.00 per month for a household of one. (130 CMR 520.030) The deductible is the total dollar amount of incurred medical expenses that an individual is responsible for before MassHealth eligibility is established. (130 CMR 520.031). The deductible period is 6 months and the deductible is determined by multiplying the excess monthly income by 6. (130 CMR 520.029, 520.030). The excess monthly income is the amount by which the appellant's countable income exceeds the MassHealth Income Standard. (130 CMR 520.030). In the present case, the appellant's countable income of \$1,361.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$839.00. \$839.00 multiplied by 6 equals \$5,034.00 however MassHealth determined a 6 month deductible amount of \$4,880.00<sup>2</sup> for the period December 1, 2021 to June 1, 2022.

Accordingly, the appellant is responsible for \$4,880.00 of incurred medical expenses for the 6 month deductible period of December 1, 2021 to June 1, 2022, before eligibility for MassHealth Standard can be established. MassHealth's action is upheld and the appeal is denied.

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<sup>1</sup> The appellant needs to verify his assets with MassHealth; the asset limit for MassHealth Standard is \$2,000.00 for one person. (130 CMR 519.005).

<sup>2</sup> MassHealth calculated a lower deductible for December, 2021 and January, 2022 to reflect the appellant's lower income for those months. (Exhibit 1).

If the appellant is clinically eligible for a Frail Elder Waiver, his MassHealth case will be redetermined.

## **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.

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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center