

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2202606
Decision Date:	6/7/2022	Hearing Date:	05/12/2022
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Chris Champagne



*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:	Denied	Issue:	Eligibility
Decision Date:	6/7/2022	Hearing Date:	05/12/2022
MassHealth's Rep.:	Chris Champagne	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	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 March 16, 2022, MassHealth notified the appellant that her coverage will change to MassHealth Senior Buy-In because she has more countable income and assets than MassHealth Standard allows. (130 CMR 519.000; Exhibit 1). The appellant needs to meet a deductible in the amount of \$4,998 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on April 7, 2022. (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 Senior Buy-In and has to meet a deductible of \$4,998 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 65-years of age or older, in a family group of 1 and has a gross monthly unearned income of \$1,375. This income places the appellant's family group at 119.6% of the federal poverty level. The MassHealth representative testified that the appellant could become eligible for MassHealth Standard by meeting a deductible in the amount of \$4,998 or deemed eligible for a frail-elder waiver (FEW). The deductible period is from March 16, 2022 to October 1, 2022.

Eligibility for a FEW involves certification by MassHealth or its agent that the individual needs nursing-facility services and can receive certain waiver services at home. The MassHealth representative noted that MassHealth did not have a record of the appellant being determined clinically eligible for a FEW. The MassHealth representative noted that the appellant was eligible for MassHealth Standard when she was under 65-years of age. The MassHealth representative noted that the eligibility rules are different for members 65-years of age and older.

At the beginning of the hearing, held by telephone, the appellant was asked if anyone else was with her at the hearing. At the beginning of the hearing, the appellant provided a telephone number for her sister. The appellant's sister was not listed as an appeal representative. After providing the telephone number, the appellant informed the hearing officer that she sister was not likely to pick up the telephone and agreed to go forward with the hearing on her own. The appellant did not dispute the information presented by MassHealth regarding her income and family group size. The appellant did not provide testimony or evidence regarding certification of clinical eligibility for a FEW. The appellant left the hearing prior to the hearing officer concluding the hearing as she had another appointment.

Findings of Fact

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

1. The appellant is 65-years of age or older.

2. The appellant's family group of one has a gross monthly income of \$1,375.
3. The income of the appellant's family group is equal to 119% of the federal poverty level.
4. The appellant has not received certification that she needs nursing facility services and can receive certain services at home.
5. The appellant has to meet a deductible in the amount of \$4,998 to become eligible for MassHealth Standard.

Analysis and Conclusions of Law

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 her family group of one has a gross monthly unearned income of \$1,375. 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 the hearing or on the review form that she receives or 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.

As noted by the MassHealth representative at hearing, the appellant's monthly income of \$1,375 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 \$4,998.

The MassHealth regulations at 130 CMR 515.001 define a deductible as the total dollar amount of incurred medical expenses that an applicant whose income exceeds MassHealth income standards must be responsible for before the applicant is eligible for MassHealth, as described at 130 CMR 520.028: Eligibility for a Deductible. As noted in the definition, the member must be responsible for the incurred expenses. The appellant did not present or note any incurred medical expenses that may be applied toward a deductible. The appellant is not eligible for MassHealth Standard until she meets the deductible with bills for which she is responsible.

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)).

The appellant's income is less than 130% of the federal-poverty level, making her eligible for the MassHealth Senior Buy-In. (130 CMR 519.010(A)).

Under this program, MassHealth pays for Medicare Part A and Part B premiums, and for deductibles and coinsurance under Medicare Parts A and B. (130 CMR 519.010(B)). 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(C)).

MassHealth correctly determined that the appellant is not eligible for MassHealth Standard but is eligible for the Senior Buy-In program.

This 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.

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