

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied in part;
Approved in part

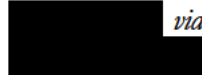
Appeal Number: 2202616

Decision Date: 6/16/2022

Hearing Date: 05/12/2022

Hearing Officer: Scott Bernard

Appearance for Appellant:

 *via* telephone
(the appellant's witness) *via* telephone


Appearance for MassHealth:

Susan Capaldo (Taunton MEC) *via* telephone
Cynthia Mecene-Olivier (Taunton MEC) *via* telephone



*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 in part; Approved in part	Issue:	Community Eligibility Income/Deductible
Decision Date:	6/16/2022	Hearing Date:	05/12/2022
MassHealth's Rep.:	Susan Capaldo	Appellant's Rep.:	
Hearing Location:	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 March 3, 2022, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that she had more countable income than MassHealth permitted and was required to pay a deductible in order to be eligible for MassHealth. (See 130 CMR 520.002; 520.008 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on April 7, 2022. (See 130 CMR 610.015(B), EOM 20-09, and Ex. 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant application for MassHealth benefits because she was over the income limit and was required to pay a deductible to become eligible for MassHealth.

Issue

The first appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, 520.002, and 520.009 in determining that the appellant was over the income limit. The second appeal issue is whether MassHealth correctly calculated the deductible.

Summary of Evidence

The MassHealth representative testified to the following. The appellant is the head of a household of

one who is over the age of 65 and living in the community. (Ex. 3). MassHealth last completed a review of the appellant's income on March 15, 2021. The appellant was not eligible for MassHealth coverage at that time unless she paid a deductible. On March 3, 2022, MassHealth sent the appellant a notice informing her that she had more countable income than MassHealth Standard or Limited benefits allow. (Ex. 1; Ex. 5, p. 3). The notice informed her that she had a deductible of \$8,548 and the deductible period was from January 3, 2022 to August 1, 2022. (Id.). The appellant has monthly income from Social Security of \$1,101.10 and \$1,998.23 from Worker's Compensation, a total of \$3,099.33. (Ex. 1; Ex. 5, p. 4). MassHealth applied the PCA disregard of \$985. (Id.). For that reason, the appellant's countable monthly income was \$2,114.33, which MassHealth rounded down to \$2,144. (Id.). In order to receive MassHealth, the appellant would have to have income that was less than or equal to 100% of FPL, which is \$1,133. The appellant is currently eligible for Health Safety Net (HSN) Partial. (Ex. 3).

MassHealth determined the deductible in the following manner. MassHealth subtracted \$522 from the appellant's countable income of \$2,144 to reach \$1,592, which is the gross monthly deductible amount. (Ex. 1; Ex. 5, p. 4). MassHealth then subtracted \$170.10, which is the amount the appellant pays for Medicare from \$1,592 to reach the net deductible amount of \$1,421.90. (Ex. 1; Ex. 5, p. 4). MassHealth determined that the appellant had a deductible of \$1,438 for the month of January 2022, and \$1,421.90 for February through June 2022. (Ex. 1; Ex. 5, p. 5).¹

The appellant and the appellant's witness stated they did not understand the financial requirements for MassHealth but confirmed that the information MassHealth had was correct. The appellant has dementia. The appellant pays \$2,000 for her housing, which leaves her \$1,000 for everything else. The appellant has tried filing for Food Stamps but only get \$12 per month. The appellant's witness stated that he is the appellant's son and PCA and takes care of her 40 – 50 hours per week. The appellant's primary care doctor does not want her to be left alone at all. The appellant cannot pay her bills. The appellant has cancer and is planning for chemotherapy but does not have transportation to get around. The appellant's witness has tried assisting the appellant to get a Frail Elder Waiver. The appellant has told the appellant's witness repeatedly that she does not want to go to a nursing home, so he is trying to keep her in the community.

The MassHealth representative stated that MassHealth sent the appellant another review form on April 13 that is due by May 28, 2022. The MassHealth representative encouraged the appellant to fill this out and submit it to MassHealth. The MassHealth representative explained how paying the deductible worked and that by submitting documentation that she has had bills equaling the deductible, the appellant could receive MassHealth for the remainder of the deductible period. She stated that the medical bills must be dated from January 3, 2022 and after.

Findings of Fact

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

1. The appellant is the head of a household of one who is over the age of 65 and living in the community. (Ex. 3; Testimony of the MassHealth representative).

¹ MassHealth did not explain why the January 2022 net monthly deductible amount was \$17 higher than the remaining five deductible payments.

2. MassHealth last completed a review of the appellant's income on March 15, 2021. (Testimony of the MassHealth representative).
3. The appellant was not eligible for MassHealth coverage at that time unless she paid a deductible (Testimony of the MassHealth representative).
4. On March 3, 2022, MassHealth sent the appellant a notice informing her that she had more countable income than MassHealth Standard or Limited benefits allow.
5. The appellant has monthly income from Social Security of \$1,101.10 and \$1,998.23 from Worker's Compensation, a total of \$3,099.33. (Ex. 1; Ex. 5, p. 4).
6. MassHealth deducted \$985, the PCA disregard, from this gross amount. (Ex. 1; Ex. 5, p. 4).
7. For that reason, the appellant's countable monthly income was \$2,114.33, which MassHealth rounded down to \$2,114. (Ex. 1; Ex. 5, p. 4).
8. To receive MassHealth, the appellant would have to have countable monthly income that was equal to or less than \$1,133, which is 100% of FPL. (Testimony of the MassHealth representative)
9. The appellant is currently eligible for Health Safety Net (HSN) Partial. (Ex. 3; Testimony of the MassHealth representative).
10. MassHealth calculated the deductible by subtracting \$522 from the appellant's countable income of \$2,144 to reach \$1,592, which is the gross monthly deductible amount. (Ex. 1; Ex. 5, p. 4).
11. MassHealth then subtracted \$170.10, which is the amount the appellant pays for Medicare from \$1,592 to reach the net deductible amount of \$1,421.90. (Ex. 1; Ex. 5, p. 4).
12. The notice informed her that she had a deductible of \$8,548 and the deductible period was from January 3, 2022 to August 1, 2022. (Ex. 1; Ex. 5, p. 3).
13. MassHealth determined that the appellant had a deductible of \$1,438 for the month of January 2022, and \$1,421.90 for February through June 2022. (Ex. 1; Ex. 5, p. 5).

Analysis and Conclusions of Law

Community residents over the age of 65 may establish eligibility for MassHealth Standard coverage provided their income is less than or equal to 100% of the Federal Poverty Level (FPL).² (130 CMR 519.005(A)(1)). In the determination of eligibility for MassHealth, the total countable income of the individual is compared to an income standard to determine eligibility. (130 CMR 520.002(A)(1); 130 CMR 520.009(A)(1)). Countable income includes both earned and unearned income. (130 CMR 519.009(C), (D)). Countable unearned income is income that does not directly result from an

² There is also a countable asset limit, but this was not at issue in this case. (See 130 CMR 519.005(A)(2)).

individual's own labor or services and includes income from social security benefits, as well as workers' compensation. (130 CMR 520.009(D)).

A preponderance of the evidence shows that the appellant is not presently eligible for MassHealth Standard. At the time MassHealth calculated the appellant's eligibility, she had income totaling \$3,099.33. The appellant did not dispute the accuracy of that income amount. MassHealth applied a \$985 disregard to that amount because the appellant receives PCA services. The appellant's countable income was therefore \$2,114.33, which MassHealth rounded down to \$2,144. The income limit for receiving MassHealth Standard is currently \$1,133, which is 100% of the Federal Poverty Level (FPL). The appellant's income therefore exceeds the income standard for receiving MassHealth Standard.

For the above stated reasons, the appeal is DENIED IN PART.

Community-based individuals whose countable-income amount exceeds the 100% federal-poverty-level income standards may establish eligibility for MassHealth by meeting a deductible. (130 CMR 520.028(B)). The deductible period is a six-month period that starts on the first day of the month of application or may begin up to three months before the first day of the month of application. (130 CMR 520.029). An applicant is eligible for this period of retroactivity only if they incurred medical expenses covered by MassHealth and were otherwise eligible. (Id.). MassHealth determines the deductible by multiplying the amount of income in excess of the deductible income standard by six. (130 CMR 520.030). The deductible income standard for a household of one living in the community is \$522. (Id.).

In this case, the appellant's countable income is \$2,144 and the deductible income standard is \$522. After subtracting the latter from the former, MassHealth correctly determined that the excess income amount was \$1,592. MassHealth subtracted \$170.10 from this amount, which is the amount the appellant pays for Medicare monthly. MassHealth therefore determined that the monthly deductible was \$1,421.90 but only for the five months from February through June 2022. MassHealth determined that the monthly deductible would be \$1,438.90 for the month of January 2022. MassHealth did not explain why there was a difference between January and the remainder of the deductible period in either the notice or in the hearing. If this hearing officer were to hazard a guess it might have something to do with the effect of a cost of living allowance (COLA) implemented in that month that increased the amount of the Medicare self-pay but only starting in February 2022. Assuming that this type of COLA is the correct explanation, the Medicare self-pay amount could have been \$17 less for the month of January. Generally, however, COLA adjustments, at least for Social Security, go into effect at the beginning of January. It is therefore possible that MassHealth made an error in calculating the deductible. Therefore, MassHealth should either correct or explain the reason for this discrepancy.

For the above stated reasons, the appeal is APPROVED IN PART

Order for MassHealth

Issue a new notice correcting the deductible calculation or explaining why the deductible amount for the month of January 2022 differed from the remainder of the deductible period.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780