

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2203321
Decision Date:	7/28/2022	Hearing Date:	06/17/2022
Hearing Officer:	Christopher Jones		

Appearance for Appellant:

 – Appeal Rep.


Appearance for MassHealth:

Yassory Pena – Tewksbury Ongoing



*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:	Traditional – Income
Decision Date:	7/28/2022	Hearing Date:	06/17/2022
MassHealth’s Rep.:	Yassory Pena	Appellant’s Rep.:	
Hearing Location:	Remote	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 April 13, 2022, MassHealth planned to downgrade appellant’s MassHealth coverage to Senior Buy-In, effective on April 27, 2022.¹ (Exhibit 2; 130 CMR 519.002.) The appellant filed this appeal in a timely manner on May 2, 2022. (Exhibit 3; 130 CMR 610.015(B).) MassHealth actions regarding the scope of coverage are appealable actions. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth downgraded the appellant’s MassHealth coverage from Standard to Senior Buy-In.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002 and 520.009 in determining that the appellant is no longer eligible for MassHealth Standard.

Summary of Evidence

The appellant is a disabled individual who receives \$1,166.50 per month in Social Security income and he is over the age of 64. MassHealth’s representative explained that MassHealth Standard is available for people under 65 years old with income at or below 133% of the federal poverty level

¹ MassHealth’s notice erroneously stated the reason for the downgrade was based upon assets. In actuality, the basis for the downgrade is based on income.

(\$1,473 per month). However, the income cutoff for people 65 and older is only 100% of the federal poverty level (\$1,133 per month). The appellant is no longer eligible for MassHealth Standard because his income is over 100%. Because of the coverage protections in place due to the Federal Public Health Emergency, he was downgraded to the Senior Buy-In benefit, but he needs to complete a new application in order for MassHealth to fully review his eligibility for benefits for members 65 and older.

MassHealth's representative explained that the Senior Buy-In benefit will pay for his Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B. However, it is possible that the appellant could qualify for Standard if he required assistance in the community with personal care services, or if he applied for the Frail Elder Waiver program.

Findings of Fact

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

1. The appellant is 65 years old or older. (Testimony by MassHealth's representative.)
2. The monthly federal poverty level for an individual in 2022 is \$1,133. (Testimony by MassHealth's representative.)
3. The appellant receives \$1,166.50 per month in Social Security income. (Exhibit 4.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. One of the major dividing lines for eligibility is the age of 65. Individuals aged 65 and older are generally governed by the regulations at 130 CMR 515.000-520.000, and those under 65 are typically determined by the regulations at 130 CMR 501.000-508.000. A disabled adult under 65 qualifies for MassHealth Standard if their income is equal to or below 133% of the federal poverty level. (130 CMR 505.002(E).) The requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age 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: *Countable-Income Amount*, 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.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), 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: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

For individuals who qualify for Medicare but have countable income between 100% and 150% of the federal poverty level, 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).) This benefit is called MassHealth Senior Buy-In or Buy-In for Qualified Medicare Beneficiaries/QMB. Other Buy-In benefits exist for members with income between 130% and 165% of the federal poverty level, but these benefits only cover the Medicare premium, not the deductibles and coinsurance.

The financial rules set out at 130 CMR 520.000 explain that all an individual’s “gross earned and unearned income less certain business expenses and standard income deductions” is countable, and “the countable-income amount is compared to the applicable income standard to determine the individual’s financial eligibility.” (130 CMR 520.009(A)(1)-(2).) There are only two standard income deductions for community residents with only unearned income: (1) “a deduction of \$20 per individual or married couple” or (2) a larger deduction that is allowed if the individual requires assistance from a personal care attendant.” (130 CMR 520.013(A)-(B).)

The appellant’s countable income is only \$1,146.50 after the \$20 deduction, but this still results in countable income equivalent to 101.2% of the federal poverty level. Therefore, MassHealth is correct that he is over income for MassHealth Standard for individuals 65 and older. This appeal must be DENEID.² The appellant must complete a new “Over-65” application to determine if there are any other benefits for which he is eligible.

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

² This change in coverage is allowable during the Federal Public Health Emergency as an adjustment within Tier 1 coverages. The appellant is going from MassHealth Standard to a Medicare Savings Program (Medicare Buy-In). (EOM 21-17, p. 2 (Nov. 2021).)

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Christopher Jones
Hearing Officer
Board of Hearings

cc:

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

Appellant Representative:

