


# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2204072
<b>Decision Date:</b>	8/18/2022	<b>Hearing Date:</b>	07/08/2022
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**

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

**Interpreter:**

Spanish


**Appearance for MassHealth:**

Josh Bailey (Springfield MEC) *via telephone*  
Dori Mathieu (Springfield 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Over 65 Downgrade
<b>Decision Date:</b>	8/18/2022	<b>Hearing Date:</b>	07/08/2022
<b>MassHealth's Rep.:</b>	Josh Bailey	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Springfield 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 May 10, 2022, MassHealth downgraded the appellant's MassHealth coverage from MassHealth Standard with Buy-In to MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) because MassHealth determined that the appellant's income was too high to receive MassHealth Standard. (See 130 CMR 519.011 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on May 25, 2022. (See 130 CMR 610.015(B) and Ex. 2). Any MassHealth action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. (See 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth downgraded the appellant's coverage from MassHealth Standard with Buy-In to MassHealth Buy-In for SLMB because it determined the appellant's income was too high to receive MassHealth Standard.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005; 519.011(A); and 520.009 in determining that the appellant is not eligible for a more comprehensive coverage.

## Summary of Evidence

The appellant is an individual over the age of 65 who is living in the community. (Ex. 2). The appellant is a recipient of Medicare. Earlier in 2022, the appellant applied for MassHealth and began receiving MassHealth Standard coverage with Buy-In. (Ex. 2; Ex. 4). The MassHealth representative testified that this was done in error because the appellant's monthly income, which is \$1,650, is at 143.9% of the Federal Poverty Level (FPL).<sup>1</sup> (See Ex. 1). The MassHealth representative stated that in order to be income eligible for MassHealth Standard, a member's income cannot exceed 100% of the FPL. Once the mistake was discovered, MassHealth corrected it and determined the appellant was eligible for MassHealth Buy-In for SLMB. The MassHealth representative briefly described other avenues that would allow the appellant to receive more comprehensive MassHealth coverage.

The appellant was upset wondered why this happened. The MassHealth representative explained, again, that someone at MassHealth made a mistake and that, unfortunately, MassHealth is required to correct mistakes when it finds them. The MassHealth representative tried to reassure the appellant that she was in no way responsible for the mistake and that MassHealth was not seeking to recoup any benefits she may have used in the time she had her previous coverage. The appellant stated that she was very sick and wanted to pay MassHealth to get some kind of coverage. The MassHealth representative explained that she did have a type of MassHealth coverage. The MassHealth representative again described the ways the appellant could get a more robust level of coverage.

## Findings of Fact

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

1. The appellant is an individual over the age of 65 who is living in the community. (Ex. 2).
2. The appellant is a recipient of Medicare. (Testimony of the MassHealth representative).
3. Earlier in 2022, the appellant applied for MassHealth. (Ex. 2; Ex. 4).
4. MassHealth approved the appellant for MassHealth Standard coverage with Buy-In. (Ex. 2; Ex. 4).
5. MassHealth's approval was done in error because the appellant was not income eligible for that

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<sup>1</sup> In determining the appellant's income, MassHealth applied the PCA disregard. This deduction from gross unearned income is allowed only for persons who are 65 years of age and older; are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level. (See 130 CMR 520.013(B)(1)). Since the appellant income exceeds 133% of the FPL prior to applying this deduction, eligibility for MassHealth Standard can only be established by meeting a deductible. (See 130 CMR 520.013(B)(3) and 130 CMR 519.005(B)). The PCA disregard is therefore used here in order to determine the deductible the appellant is required to meet in order to become eligible for MassHealth Standard, not as a deduction that can be generally applied to the appellant's income.

coverage. (Testimony of the MassHealth representative).

6. The appellant's monthly income is \$1,650, which is 143.9% of FPL. (Ex. 1; Testimony of the MassHealth representative).
7. In order to be income eligible for MassHealth Standard, a member's income cannot exceed 100% of the FPL. (Testimony of the MassHealth representative).
8. Once MassHealth discovered the mistake was discovered, MassHealth corrected it and determined the appellant was eligible for MassHealth Buy-In for SLMB. (Ex. 1).

## Analysis and Conclusions of Law

An individual'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)). 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)). Noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided their countable income is less than or equal to 100% of the FPL and they have less than \$2,000 in assets. (130 CMR 519.005(A)).

The record shows by a preponderance of the evidence that the appellant is not eligible for MassHealth Standard. The appellant receives \$1,650 per month in unearned income. She is a household of one person. This places the appellant at 143.9% of the FPL. This is well above the income standard to establish eligibility for MassHealth Standard for a household of one, which is 100% of FPL or \$522 per month. The appellant is not eligible for MassHealth Standard.

MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) coverage is available to Medicare beneficiaries who:

- (1) are entitled to hospital benefits under Medicare Part A;
- (2) have a countable income amount that is greater than 130% of the federal poverty level and less than or equal to 150% 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 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, as applicable. (See 130 CMR 519.011(A) and 519.010(A)).

The record shows that the appellant is eligible for MassHealth Buy-In for SLMB. Neither party denied that the appellant was entitled to hospital benefits under Medicare Part A. Furthermore, neither party asserted that the appellant had countable assets greater than two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and

Medicaid Services. Neither party asserted that the appellant did not meet the universal requirements of MassHealth benefits. The record shows that the appellant's monthly income which is 143.9% of FPL falls within the range of income eligibility for Buy-In for SLMB. MassHealth correctly determined that the appellant is eligible for Buy-In for SLMB.

For the above stated reasons, the 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104