


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2204339
<b>Decision Date:</b>	8/1/2022	<b>Hearing Date:</b>	06/28/2022
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	07/28/2022

**Appearance for Appellant:**

 pro se (by telephone)

**Appearance for MassHealth:**

Anne Zhang, Charlestown MEC (by telephone)



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	8/1/2022	<b>Hearing Date:</b>	06/28/2022
<b>MassHealth Rep.:</b>	Anne Zhang	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated May 25, 2022, MassHealth denied appellant's application for benefits due to excess assets (Exh. 1). The appellant filed this appeal in a timely manner with the Board of Hearings (BOH) on June 2, 2022 (130 CMR 610.015(B); Exh. 2). Denial of an application for benefits is a valid basis for appeal to BOH (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied appellant's application for benefits because it determined he has more countable assets than are allowable under MassHealth regulations.

### Issue

The appeal issue is whether MassHealth correctly determined that the appellant has excess assets.

## Summary of Evidence

The MassHealth representative from the Charlestown MassHealth Enrollment Center testified by telephone that the appellant, who is over age 65 and lives in the community, applied for MassHealth benefits on May 24, 2022. MassHealth determined that the appellant has excess assets contained in two bank accounts, totaling \$29,137.08. Therefore, MassHealth denied the appellant's application by notice dated May 25, 2022, noting that the appellant is eligible for health safety net (Testimony, Exh. 1).

The appellant testified by telephone that he has Medicare Parts A and B as his primary insurance. He testified that he lived in the United States, and then moved to Lebanon in 2017. He returned to the United States in May, 2022, just prior to filing his MassHealth application. He had assets in a bank in Lebanon, which he was unable to withdraw for a long time. Currently, he has approximately \$1,500.00 in a [REDACTED] checking account, and approximately \$20,000.00 (assets formerly held in a Lebanon bank) in an account with [REDACTED] (Testimony).

The MassHealth representative stated the appellant's income is not an issue, and that if the appellant can show that he has reduced assets to \$16,800.00 to qualify for MassHealth Senior Buy-In, or to \$2,000.00 to qualify for MassHealth Standard, a new eligibility decision can be made (Testimony).

At the close of the hearing, the hearing officer left the record of this appeal open for thirty days, or until July 26, 2022, for the appellant to produce bank statements for the months of May and June, 2022 for both [REDACTED] and [REDACTED], and until August 2, 2022 for the MassHealth representative to report back whether he has reduced assets to an amount that would enable him to qualify for a MassHealth benefit.

On July 28, 2022, the hearing officer received e-mail correspondence from the MassHealth representative stating as follows:

[The appellant] brought bank statements (June to July 2022) in on 7/26/22. He was approved with Cat 22 of Senior buy in with effective date as 8/1/22. The notice with decision date 7/26/22 was mailed out. Due to system issue, you might not see this new benefit. I have to protect him with his current benefit of Cat -AQ -Full Health Safety Net until 7/31/22. I will make a final update on 8/1/22 to reflect the new decision of Senior buy-in.

(Exh. 4)

## Findings of Fact

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

1. The appellant, who is over age 65 and lives in the community, filed an application for

MassHealth benefits on May 24, 2022 (Testimony, Exh. 1).

2. MassHealth denied the appellant's application on May 25, 2022 due to excess assets (*Id.*).
3. A timely appeal was filed with BOH on June 2, 2022 (Exh. 2).
4. As of the hearing date, the appellant had assets of approximately \$1,500.00 in a [REDACTED] checking account, and approximately \$20,000.00 (assets formerly held in a Lebanon bank) in an account with [REDACTED] (Testimony).
5. During a Record Open period following the appeal hearing, the appellant produced bank statements showing that he had reduced assets to \$16,800.00 or less (Exh. 4).
6. The appellant is eligible for MassHealth Senior Buy-In effective August 1, 2022 (*Id.*).

## **Analysis and Conclusions of Law**

Pursuant 130 CMR 505.001, "Introduction to MassHealth:"

130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements.

(A) The MassHealth coverage types are the following:

(1) Standard for pregnant women, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);

(2) CommonHealth for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;

(3) CarePlus for adults 21 through 64 years of age who are not eligible for MassHealth Standard;

(4) Family Assistance for children, young adults, certain noncitizens and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;

(5) Small Business Employee Premium Assistance for adults or young adults who

(a) work for small employers;

(b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;

(c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and

(d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;

(6) Limited for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs and other noncitizens as described in 130 CMR 504.003: Immigrants; and

(7) Senior Buy-in and Buy-in for certain Medicare beneficiaries.

(B) The financial standards referred to in 130 CMR 505.000 use MassHealth modified adjusted gross income (MAGI) household or MassHealth Disabled Adult household, as defined in 130 CMR 506.002: Household Composition.

130 CMR 505.007 states that in order to qualify for MassHealth Senior Buy-In:

(A) MassHealth Senior Buy-in and Buy-in coverage are available to Medicare beneficiaries who are not eligible for MassHealth Standard, in accordance with 130 CMR 519.010: MassHealth Senior Buy-in and 519.011: MassHealth Buy-in. MassHealth Standard members receive this benefit under 130 CMR 505.002(O). MassHealth CommonHealth members receive this benefit in accordance with 130 CMR 505.004(L).

(B) Income and assets for benefits provided under 130 CMR 519.010: MassHealth Senior Buy-in and 519.011: MassHealth Buy-in are determined in accordance with 130 CMR 520.000: MassHealth: Financial Eligibility.

Next, pursuant to 130 CMR 520.003, “Asset Limit:”

(A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits: (1) for an individual – \$2,000; and (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) – \$3,000.

**(B) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Senior Buy-in for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-in for Qualifying Individuals (QI), both as described in 130 CMR 519.011: MassHealth Buy-in, may not exceed the amount 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.**

(Emphasis added)

Here, the appellant’s assets were too high to qualify for any MassHealth benefit, and MassHealth sent him a denial notice. He timely appealed. Following the appeal hearing, the appellant produced updated bank statements showing he reduced assets; as a result, he will be eligible for MassHealth Senior Buy-In effective August 1, 2022.

Pursuant to the Fair Hearing Rules applicable to this proceeding, 130 CMR 610.051(B), “Adjustments Resolving Issues:”

The MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period. If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. BOH will not delay a fair hearing because a possible adjustment is under consideration, unless the appellant requests or agrees to such a delay.

As the issue at hand has been adjusted in the appellant's favor, the appeal is hereby DISMISSED.

## **Order for MassHealth**

Send notice to the appellant informing him of his eligibility for MassHealth Senior Buy-In, including the benefit start-date, if MassHealth has not already done so.

## **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 you experience problems with the implementation of this decision, you should report this in writing to the Acting Director of the Board of Hearings at the address on the first page of this decision.

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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Jennifer Vitt, Appeals Coordinator, Charlestown MEC