

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2207548

Decision Date: 12/1/2022

Hearing Date: 11/08/2022

Hearing Officer: Marc Tonaszuck

Appearance for Appellant:



Appearance for MassHealth:

Brian Hatch



*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:	12/1/2022	Hearing Date:	11/08/2022
MassHealth's Rep.:	Brian Hatch	Appellant's Rep.:	Daughter
Hearing Location:	Charlestown MassHealth Enrollment Center	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 09/19/2022, MassHealth informed the appellant that it decided she was not eligible for MassHealth community benefits because she had more countable assets than MassHealth benefits allow (see 130 CMR 520.003, 520.004 and Exhibit 1). The appellant filed this appeal in a timely manner on 10/12/2022¹ (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

The record remained open until 11/28/2022 for additional evidence from the parties.

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth community benefits because she assets that exceed the MassHealth program limits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth benefits because she is over the asset limit.

Summary of Evidence

The MassHealth representative testified that the appellant is over 65 years of age and lives in the community. An application was submitted on the appellant's behalf on 07/22/2022. MassHealth requested additional information about the appellant's assets and sent out a request for verifications on 07/26/2022. In response, MassHealth received information showing that the appellant owns an apartment in Albania. According to a statement MassHealth received from the appellant's adult daughter, the appellant lived in Albania "for years," but in March of 2022, she relocated to Massachusetts to live with her daughter. According to the appellant's daughter, the value of the real estate in Albania is \$50,000.00 (Exhibit 4).

The MassHealth representative testified that the appellant and her husband are counted as a household of two. The asset limit for a household of two, living in the community, is \$3,000.00. The appellant's real estate, located outside of Massachusetts, is not her home residence, now that she lives in Massachusetts. As a result, the out-of-state property is countable as an asset in an eligibility determination for MassHealth benefits. Based on the self-attestation by the appellant's adult daughter, the value of the real estate exceeds the \$3,000.00 limit.

The appellant's income is not at issue in this appeal. Although she is not now eligible for MassHealth community benefits, she is eligible for Health Safety Net.

The appellant's adult daughter appeared on the appellant's behalf as her appeal representative. She questioned why an applicant cannot own a home in another state or country. She testified that she does not understand how the appellant can access health benefits if she does not dispose of the property in Albania.

Findings of Fact

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

1. Appellant is over 65 years of age and lives in the community (Testimony).
2. Appellant is married and the couple is counted as a household of two in a MassHealth eligibility determination (Testimony).
3. Appellant owns real estate in Albania (Testimony).
4. The real estate owned by appellant in Albania is valued at \$50,000.00 (Testimony; Exhibit 4).
5. The asset limit for a MassHealth member in the community is \$3,000.00 for a member of a household of two.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 519.005 address MassHealth eligibility requirements for community residents aged 65 and older as follows:

(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% 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.

Regulations at 130 CMR 520.007(G)(1) address real estate as a countable asset as follows:

All real estate owned by the individual and the spouse, with the exception of the principal place of residence as described in 130 CMR 520.008(A), is a countable asset. The principal place of residence is subject to allowable limits as described

in 130 CMR 520.007(G)(3). Business or nonbusiness property as described in 130 CMR 520.008(D) is a noncountable asset

The appellant is over 65 years of age and lives with her husband in the community. MassHealth denied her application for benefits because she owns assets whose value exceeds the program limits. In order to be eligible for MassHealth benefits, the appellant's assets must not exceed \$3,000.00, as a married woman in the community.

Undisputed is that the appellant owns real estate located in Albania. She no longer lives in Albania, but earlier this year moved to her current principal residence located in Massachusetts. According to the appellant's representative's statement, the value of the real estate is \$50,000.00. The real estate in Albania is a countable asset, pursuant to the above regulation, because it is not the appellant's principal residence.² Based on the value of \$50,000.000 attested to by the appellant's representative, the appellant has countable assets that exceed the \$3,000.00 limit. MassHealth correctly denied the appellant's application for benefits and this appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

[REDACTED]

² The appellant would not be eligible for MassHealth benefits unless she resides in Massachusetts and indicates an intent to remain in Massachusetts.

MassHealth Representative: Jennifer Vitt, Charlestown MassHealth Enrollment Center,
529 Main Street, Suite 1M, Charlestown, MA 02129