

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2208400
Decision Date:	12/20/2022	Hearing Date:	12/09/2022
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Lindsey Carney – 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:	Eligibility – Income
Decision Date:	12/20/2022	Hearing Date:	12/09/2022
MassHealth’s Rep.:	Lindsey Carney	Appellant’s Rep.:	Pro se
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 August 18, 2022, MassHealth denied the appellant’s application for MassHealth Standard benefits the appellant had too much countable income. (Exhibit 2; 130 CMR 520.002, 520.0028.) The appellant filed this timely appeal on November 10, 2022. (Exhibit 3; 130 CMR 610.015(B); EOM 22-10 (Aug. 2022).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth denied eligibility for MassHealth Standard and calculated a six-month deductible based upon the appellant’s verified earned income.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.000, in determining that the appellant’s countable income was too high to qualify for MassHealth Standard.

Summary of Evidence

The appellant applied for senior benefits on or around July 1, 2022. MassHealth requested additional information regarding the appellant’s finances, and on August 18, issued its denial notice stating that the appellant’s earned income was too high to qualify for any MassHealth Standard benefits. The appellant works two jobs, and she submitted paystubs that averaged monthly earned

income of \$2,856.09 per month. There was some confusion at the hearing regarding the appellant's income. Her spouse died during the summer, and she started to receive Social Security Survivor's benefits in the amount of \$1,491.10 after MassHealth had verified her employment income.

MassHealth's representative explained that Standard benefits are only available for seniors with countable income at or below the federal poverty level, or \$1,133 per month in 2022. MassHealth typically counts all of an individual's unearned income, less an unearned income disregard of \$20. From earned income, MassHealth disregards \$65 before counting half of the remaining earned income. Therefore, MassHealth only counted \$1,385.50 of the appellant's earned income when it issued its August 18 notice. The appellant may have qualified for Senior Buy-in benefits, however, once her unearned income was discovered, her countable income became \$2,876.60. This income is too high for the Buy-in benefit as well.

The appellant testified that her income is highly variable, and she felt that it might not have been accurately reflected by the paystubs she submitted. MassHealth's representative suggested she submit her most recent tax return. The appellant's annual income would provide a more accurate monthly average. However, given the appellant's Social Security benefits, any adjustment to the employment income would not change MassHealth's substantive decision. The appellant was very frustrated and confused by how difficult it is to understand our health coverage system. She was especially frustrated by the fact that this becomes even more difficult for seniors. She used to get health and dental insurance through either MassHealth or the Health Connector when she was younger than 65. Now, her income is too high to get MassHealth, and the Health Connector will not cover her because she has access to Medicare. She asked if it would make financial sense for her to cancel the Survivor's benefits from Social Security. It was explained that her employment income, as reported, made her ineligible for comprehensive health coverage through MassHealth. Otherwise, this was not a topic on which MassHealth's representative could make recommendations.

The appellant testified that she still pays for dental insurance through the Health Connector, but she needed to pay for a separate prescription plan for her Medicare. She was hoping to have this appeal prior to Medicare's open enrollment closing, but it was not scheduled until the week after it closed. Therefore, she selected a Medicare Advantage plan that she thinks is going to result in her having to pay thousands of dollars a month for her prescriptions. She testified that she has several incurable medical conditions that have extraordinarily expensive prescriptions. She had many questions about how to compare Medicare plans, and she was referred back to Social Security to address those.

Given her anticipated medical costs, the six-month deductible process for MassHealth Standard was reviewed with the appellant. The appellant also testified that her doctor had told her that she should stop working. She was informed that she could ask MassHealth's Disability Evaluation Services to complete a disability evaluation, even if she were working. The criteria they would review is whether she should not be working due to her medical conditions. If she were deemed disabled, and she continued to work at least 10 hours a week (or 40 hours a month), she could pay a monthly premium for the MassHealth CommonHealth benefit.

The appellant remained very frustrated by how complicated the system is for covering elderly people and asked that a fair hearing decision be issued. She also asked that MassHealth's representative mail out a disability supplement for her to complete and return.

Findings of Fact

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

1. The appellant is over the age of 65, and she applied for MassHealth benefits on or around July 1, 2022. (Testimony by MassHealth's representative.)
2. During the application process, MassHealth requested financial verifications. The appellant verified that she works two jobs, she and submitted paystubs that averaged \$2,856.09 per month in employment income. (Testimony by MassHealth's representative; Exhibit 2.)
3. Around this time, the appellant's spouse also died. The appellant began receiving Social Security Survivor's benefits in the amount of \$1,491.10. (Testimony by the appellant and MassHealth's representatives.)

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 have eligibility for MassHealth benefits determined using 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. These rules differ significantly.

An individual over the age of 65 must have countable income less than or equal to the federal poverty level, and they have the added obligation of proving countable assets below \$2,000 (\$3,000 for a married couple living together). (130 CMR 519.005(A)(1)-(2).) However, an individual over the age of 65 may become eligible for MassHealth Standard on a temporary basis by meeting a deductible every six months. (130 CMR 519.005(B); 130 CMR 520.028-520.035.) This deductible is calculated by comparing an applicant's countable income to the "deductible-income standard" of \$522. The deductible is equal to "the excess monthly income" multiplied by six. (130 CMR 520.030.)

The appellant's countable income is the entirety of her "gross earned and unearned income, less certain business expenses and standard income deductions" (130 CMR 520.009.) The standard deductions are:

520.012: Community Earned-income Deductions

In addition to business expenses described at 130 CMR 520.010(A) and (B), the MassHealth agency allows the following deductions from the gross earned

income of each employed individual or married couple living in the community. These deductions do not apply to the income of a community spouse, as described at 130 CMR 520.026(B). Standard earned-income deductions are applied in the following order:

- (A) \$20, if there is no unearned income or, if there is unearned income that is less than \$20, the balance of the \$20 is disregarded from earned income;
- (B) the next \$65 a month of earned income; and
- (C) one-half of the remaining earned income.

520.013: Community Unearned-income Deductions

In addition to business expenses described at 130 CMR 520.010, the MassHealth agency allows the deductions listed below from the total gross unearned income. These deductions do not apply to the income of a community spouse described at 130 CMR 520.026(B). The deductions allowed from the total gross unearned income are the following:

- (A) a deduction of \$20 per individual or married couple; or
- (B) [a larger deduction for individuals who require personal-care assistance.]

(130 CMR 520.012 – 520.013.)

The appellant's countable unearned income is the gross Social Security benefit of \$1,491.10, less \$20, or \$1,471.10. The earned income of \$2,856.09 is reduced by \$65, then halved to equal \$1,395.55. Therefore, the appellant's total countable income is \$2,866.65, which is equivalent to 253% of the federal poverty level. The appellant's excess income (as defined by 130 CMR 520.030) is \$2,344.65, and her six-month deductible should be \$14,067.87. If the appellant accumulates out-of-pocket medical expenses within a six-month period greater than \$14,000, she should submit proof of those expenses to MassHealth, and she may be eligible for MassHealth Standard for the remainder of that six-month window. Because MassHealth was correct that the appellant is ineligible for MassHealth Standard without meeting a deductible, this appeal is DENIED.

If the appellant is deemed disabled by MassHealth's Disability Evaluation Services, she could be eligible for the CommonHealth benefit. (See 130 CMR 519.012(A).) However, "[f]inancial eligibility for all MassHealth CommonHealth applicants and members is based on" the rules governing individuals under the age of 65, "130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. 130 CMR 520.000: *MassHealth: Financial Eligibility* does not apply." (130 CMR 519.012(C).) These rules would include all of the appellant's earned income, which would affect the monthly CommonHealth premium calculation. (See 130 CMR 506.003.)

The CommonHealth premium is calculated based upon deciles above the federal poverty level. Adults with income just over 150% of the federal poverty level must pay \$15 per month. Five dollars is added for each decile above 150% of the federal poverty level, up to 200%, and eight

dollars is added for each decile up to 400%. Adults with income at 400% of the federal poverty level would owe \$202 per month. (See 130 CMR 506.011(B)(2)(b).)

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc:

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