

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302821
<b>Decision Date:</b>	5/12/2023	<b>Hearing Date:</b>	05/08/2023
<b>Hearing Officer:</b>	Rebecca Brochstein		

**Appearances for Appellant:**



**Appearances for MassHealth:**

Michelle Trainor, Tewksbury MEC



*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>	Denied	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	5/12/2023	<b>Hearing Date:</b>	05/08/2023
<b>MassHealth Rep.:</b>	Michelle Trainor, Tewksbury MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (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 April 3, 2023, MassHealth notified the appellant that he is not eligible for MassHealth because he has more countable income than MassHealth benefits allow (Exhibit 1). The appellant filed a timely appeal on April 7, 2023 (Exhibit 2). Denial of benefits is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's application for benefits because his income exceeds program limits.

### Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is financially ineligible for MassHealth benefits.

## **Summary of Evidence**

A caseworker from the Tewksbury MassHealth Enrollment Center appeared at the hearing telephonically and testified as follows: The appellant, who is now over the age of 65, was previously approved for MassHealth benefits under the eligibility rules for those under 65. His coverage was protected during the Federal Public Health Emergency. On March 20, 2023, MassHealth redetermined his eligibility and found his income exceeds the limits for individuals over 65, which is 100% of the federal poverty level (FPL). His only income is his Social Security benefit of \$2,742.90, which is 224% of the FPL for a household of one. The MassHealth caseworker noted that the appellant has not reported any assets. She stated that the appellant is just below the income limit for the Medicare Savings Program, under which MassHealth would pay for his Medicare Part B premium.

The appellant appeared at the hearing telephonically and testified on his own behalf. He stated that he has no assets, that his Social Security is deposited into a friend's checking account and the friend then gives him the funds in cash. He testified that he has Stage IV prostate cancer as well as other ailments, and argued that MassHealth is just trying to "dump the expensive, older people."

The MassHealth caseworker suggested that the appellant can look into applying for the Frail Elder Waiver, which has higher income limits for individuals who need assistance at home. She provided a phone number for the agency that screens for waiver eligibility. She also reiterated that he can apply for the Medicare Savings Program for MassHealth to cover his Part B premium.

## **Findings of Fact**

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

1. The appellant is over the age of 65 and has a family group of one.
2. The appellant was previously approved for MassHealth under the financial guidelines for individuals under 65. His coverage was protected during the Federal Public Health Emergency.
3. On March 20, 2023, MassHealth redetermined his eligibility and found his income exceeds the limit for individuals over 65, which is 100% of the federal poverty level.
4. The appellant has Social Security income of \$2,742.90, or 224% of the federal poverty level for a household of one.
5. The appellant has not reported any assets.

## Analysis and Conclusions of Law

The eligibility criteria for community residents who are age 65 and older are found at 130 CMR 519.005. Part (A) of that regulation states that except as provided in 130 CMR 519.005(C)<sup>1</sup>, 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.

The appellant has Social Security income of \$2,742.90, which is 224% of the federal poverty level— well above the income limit for MassHealth Standard. As the MassHealth representative testified, he may be eligible for payment of his Medicare Part B premium through the Medicare Savings Program.<sup>2</sup> Based on the current information on file, however, MassHealth's eligibility denial was correct.

This 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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Rebecca Brochstein  
Hearing Officer  
Board of Hearings

cc: Tewksbury MEC

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<sup>1</sup> The exceptions in section (C) are reserved for parents and caretaker relatives of children under age 19.

<sup>2</sup> Per MassHealth Eligibility Operations Memo 23-04, which recently increased the income limits for MSP, the upper limit for eligibility is now 225% of the federal poverty level. The application for this program can be found online at <http://www.mass.gov/lists/applications-to-become-a-masshealth-member>.