

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303083
Decision Date:	6/9/2023	Hearing Date:	05/17/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Courtney Juday



*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:	6/9/2023	Hearing Date:	05/17/2023
MassHealth's Rep.:	Courtney Juday	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone		

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 April 4, 2023, MassHealth notified the appellant that she is not eligible because she has more countable assets than MassHealth allows. (130 CMR 519.000; Exhibit 1). The appellant filed an appeal in a timely manner on April 19, 2023. (130 CMR 610.015; Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that she is not eligible for MassHealth because she has more countable assets than MassHealth allows.

Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility.

Summary of Evidence

The MassHealth representative, from the Springfield MassHealth Enrollment Center, testified that the appellant is not eligible for MassHealth due assets that exceed the program limits. (Testimony;

Exhibit 1). The appellant is over 65-years of age and has a gross monthly income of \$1,974 each month which places her at approximately 162.5% of the federal poverty level. MassHealth counted total assets in excess of \$26,000.

Prior to the hearing, the appellant submitted a letter and documents stating that she did not believe MassHealth was correct in considering \$26,000 as assets. (Exhibit 4). The appellant provided documentation that included bank statements showing a savings account balance of approximately \$26,000 and checking account balance of approximately \$2,852. (Exhibit 4). The appellant wanted MassHealth to consider a student loan balance of approximately \$175,296 in determining eligibility. The appellant stated that the bank balances are a liability and funds that remain from the student loan. The appellant testified that she spoke to a MassHealth representative prior to the hearing about spending down her assets. As of the time of the hearing, the MassHealth representative did not have information regarding an asset spenddown and the appellant did not present any evidence or testimony to verify a current asset balance. The MassHealth representative noted at hearing that should the appellant provide information to the agency about an asset reduction, MassHealth can issue another eligibility decision.

Findings of Fact

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

1. The appellant is over 65-years old.
2. At the time of the notice, the appellant had over \$26,000 in assets.
3. At the time of the hearing, the appellant did not have evidence of an asset balance less than \$18,000.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. (130 CMR 515.002). 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for persons who are institutionalized, 65 years of age or older, or who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act. The appellant is over 65 years of age so falls under these regulatory requirements. In determining eligibility for MassHealth for individuals over 65 years of age, the total countable-income amount and countable assets of the individual is compared to an income standard and asset limit. (130 CMR 520.002(A)).

Countable assets are all assets that must be included in the determination of eligibility. (130 CMR 520.007). Countable assets include assets to which the applicant or member or his or her spouse

would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. (130 CMR 520.007). In determining whether or not failure to receive such assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. (130 CMR 520.007). The applicant or member and the spouse must verify the total value of countable assets. (130 CMR 520.007). However, if he or she is applying solely for 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, verification is required only upon request by the MassHealth agency. (130 CMR 520.007). 130 CMR 520.007 also contains the verification requirements for certain assets. (130 CMR 520.007). In this case, MassHealth did request verification of assets and made a determination that the appellant's assets exceeded program guidelines.

The assets that the MassHealth agency considers include, but are not limited to, the following.

(A) Cash.

- (1) Definition. Cash is defined as currency, checks, and bank drafts in the possession of or available to the applicant, member, or spouse.
- (2) Verification. The applicant's or member's declaration on the application or redetermination form stating the amount of cash available to him or her is sufficient verification.

(B) Bank Accounts.

- (1) Definition. Bank accounts are defined as deposits in a bank, savings and loan institution, credit union, or other financial institution. Bank accounts may be in the form of savings, checking, or trust accounts, term certificates, or other types of accounts.
- (2) Determination of Ownership and Accessibility. MassHealth considers funds in a bank account available only to the extent that the applicant or member has both ownership of and access to such funds. MassHealth determines the ownership of and access to the funds in accordance with 130 CMR 520.005 and 520.006.
- (3) Verification of Account Balances. MassHealth requires verification of the current balance of each account at application, during eligibility review, and at times of reported change.
 - (a) Noninstitutionalized individuals excluding the individuals described at 130 CMR 519.007(B): Home- and Community-based Services Waiver-Frail Elder must verify the amount on deposit by bank books or bank statements that show the bank balance within 45 days of the date of application or the date that the eligibility review is received in a MassHealth Enrollment Center or

outreach site.

- (b) Nursing-facility residents as described at 130 CMR 515.001: Definition of Terms must verify the amount on deposit by bank books or bank statements that show the current balance and account activity during the look-back period.

The appellant has bank account balances and did not dispute her ownership or accessibility to the accounts. Therefore, the funds in these accounts are considered countable assets. (130 CMR 520.007(B)).

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals aged 65 and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- a) the countable-income amount, as defined in 130 CMR 520.009, of the individual or couple is less than or equal to 100 percent of the federal poverty level; and
- b) 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's countable assets over \$26,000 exceed the asset limits for an individual. Therefore, the appellant is not eligible for MassHealth Standard. 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, meeting a deductible as described at 130 CMR 520.028 et seq., or both. (130 CMR 519.005(B)). As of the date of the hearing, the appellant did not demonstrate that she spent down her assets.

MassHealth Medicare Savings Program (MSP) (Buy-In) for Qualified Medicare Beneficiaries (QMB) coverage is available to Medicare beneficiaries who:

- (1) are entitled to hospital benefits under Medicare Part A;
- (2) are applying for only MSP benefits and not full Medicaid, and have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% 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 & 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. (130 CMR 515.010(A)).

While the appellant's income meets these requirements, she did not state that she is only applying for MSP services and her assets exceed the 2023 MSP asset limit of \$18,180.¹ (130 CMR 519.010(A)).

The appellant's argument requiring the agency to consider a student loan in determining eligibility is not valid. MassHealth looks to the total asset amount at the time of the eligibility decision, not their source.

The decision made by MassHealth 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186.

¹ The regulations cited in this decision went into effect on May 12, 2023. They are being utilized in this decision as they provide broader eligibility requirements for Medicare Savings Programs which are available to members over the age of 65 and are not eligible for MassHealth Standard.