

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2303463
Decision Date:	6/5/2023	Hearing Date:	05/24/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone,



Appearance for MassHealth:
Via telephone,
Stephen Diaz



*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:	Dismissed	Issue:	Eligibility; Excess Assets
Decision Date:	6/5/2023	Hearing Date:	05/24/2023
MassHealth's Rep.:	Stephen Diaz	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Tewksbury MassHealth Enrollment Center Room 1 (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 April 3, 2023, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that the Appellant was over the allowable income and asset limits. (See, Exhibit 1). The Appellant filed this appeal in a timely manner on April 24, 2023. (See, 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth benefits because he was over the allowable income and asset limits.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over assets and income to qualify for MassHealth benefits.

Summary of Evidence

A MassHealth representative appeared at the hearing via telephone and testified as follows: The Appellant is listed as a household of 2 with income listed as social security received by both the Appellant and his spouse. This combined income puts them over the limit for MassHealth benefits. The MassHealth representative further testified that MassHealth has an asset listed that he believes is in question, namely, a bank account that was last verified in 2018. The Appellant received the April 3, 2023 denial notice because the system automatically generated new notices for any outstanding verifications that have not been recently verified at the end of the Public Health Emergency (PHE). Since MassHealth has not received a renewal application in some time, the system caught an old issue that had not been resolved.

The Appellant appeared at the hearing via telephone and testified that he was confused as to how he could be over the income limit as he currently receives various types of assistance for food, fuel and rent. He stated that the only income that he and his spouse receive is social security. As for the checking account mentioned, the Appellant stated there is no money in that account. The Appellant inquired as to how he qualifies for food assistance, fuel and rent assistance and debt relief programs but does not qualify for MassHealth. In response, the MassHealth representative testified that to qualify for MassHealth benefits, per regulation, the Appellant and his spouse (as a household of 2) would have to be at 100 percent (or less) of the Federal Poverty Level (FPL). The combined social security incomes received by the Appellant and his spouse are above said level. With respect to the bank account in question, the MassHealth representative reiterated that said account was last verified in 2018 so if the account has been depleted or has a substantially less balance, the Appellant will need to submit a new bank statement along with a renewal application. The Appellant expressed his frustration with MassHealth regulations because he believes they are incorrect. He testified that his wife has rheumatoid arthritis, and her treatment costs equal approximately \$ 29,000.00. Therefore, if they run out of Health Safety Net coverage, she could potentially die. The Appellant stated that MassHealth better do something with their charts or figure something out. The MassHealth representative responded that the Appellant should submit a renewal because one has not been received in a while and if there are new bank statements, the Appellant should submit those as well. The Appellant responded that it does not matter because he and his spouse make the income that they make. The Appellant is taken care of medically by the VA and if it was not for the VA he would be out on the street. The Appellant testified that he and his spouse cannot afford her necessary medical treatment without Health Safety Net coverage. In response, the MassHealth representative explained that the Appellant and his spouse still maintain Health Safety Net coverage, however, if they would like to apply for MassHealth benefits, the regulations pertaining to income and asset thresholds must be met. The Appellant stated that the notice he received was unclear, but so long as he and his spouse still have Health Safety Net coverage then he is satisfied. The MassHealth representative testified that the Appellant should still renew because it is required yearly. In response, the Appellant stated that

the MassHealth representative was not listening to him. He explained that his wife is very thorough, and she was told (for the past 5 years) that they do not have to renew their applications. Therefore, someone better get their story straight and the MassHealth representative should investigate the conflicting responses given by his agency. The MassHealth representative responded that he would like to help the Appellant, however, yelling on the telephone would not resolve anything. The Appellant stated that the MassHealth representative does not have a spouse that goes through the pain that his spouse endures. The MassHealth representative stated that he understood, but regardless of what MassHealth product the Appellant receives, he still must renew yearly and will send him a renewal packet via mail. The Appellant testified that he would be more than happy to submit the renewal application once received after the MassHealth representative affirmed that the Appellant and his spouse still receive Health Safety Net coverage. The Appellant reiterated that so long as he and his wife still receive coverage, he no longer needs an appeal and apologized to the MassHealth representative. He explained that he was protecting his wife.

Findings of Fact

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

1. On or about April 3, 2023, MassHealth sent a denial notice to the Appellant because MassHealth determined that he was over the income and asset guidelines. (Testimony; Exhibit 1).
2. The denial notice was sent to the Appellant at the end of the Public Health Emergency. (Testimony).
3. On April 24, 2023, the Appellant timely appealed the MassHealth denial notice. (Exhibit 2).
4. MassHealth determined that the Appellant and his spouse's combined income exceeds the Federal Poverty Limit guidelines and has an asset listed (a bank account with a \$ 6000+ balance) that was last verified in 2018. (Testimony).
5. The Appellant receives rental, fuel, food and debt relief assistance. (Testimony).
6. The Appellant's spouse requires necessary medical treatment and they cannot afford to lose Health Safety Net coverage. (Testimony).
7. The Appellant and his spouse did not lose their existing coverage. (Testimony; Exhibit 3).
8. The Appellant must submit yearly renewal applications to MassHealth. (Testimony).

9. The Appellant agreed to do so once he receives the MassHealth renewal packet via mail. (Testimony).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(B)). 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. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;
- (6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;
- (7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;
- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;
- (9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;
- (10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or
- (11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

In the present case, the Appellant was satisfied with the explanation given at the hearing upon learning that he and his spouse did not lose Health Safety Net coverage. The Appellant agreed to

submit the renewal packet once received. Because the appeal issue has been resolved, there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290