

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2303489
<b>Decision Date:</b>	7/24/2023	<b>Hearing Date:</b>	05/24/2023
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**  
*Via telephone*



**Appearance for MassHealth:**  
*Via telephone*  
Yassory Pena



*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

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Eligibility-Over Assets
<b>Decision Date:</b>	7/24/2023	<b>Hearing Date:</b>	05/24/2023
<b>MassHealth's Rep.:</b>	Yassory Pena	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 1 (Remote)	<b>Aid Pending:</b>	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 24, 2023, MassHealth downgraded the Appellant's MassHealth benefits from MassHealth Standard to Senior Buy In 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 28, 2023. (See, 130 CMR 610.015(B) and Exhibit 2). Reduction of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth downgraded the Appellant's MassHealth benefits because she was over the allowable asset limits.

### Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over asset for MassHealth Standard benefits.

### Summary of Evidence

A MassHealth representative appeared at the hearing via telephone and testified as follows: The Appellant was previously receiving MassHealth Standard. She submitted her renewal form in April of 2023. Upon receipt, MassHealth processed the Appellant's renewal application and counted the Appellant's reported vehicle value as an asset, thereby placing the Appellant over asset for MassHealth Standard benefits. As a result, a downgrade notice was generated on April 24, 2023. (Exhibit 1). The MassHealth representative explained that, prior to the hearing, she noticed that the Appellant's vehicle value was not supposed to be counted as an asset and was done so in error. Therefore, the MassHealth representative corrected this error and mailed a new notice of approval to the Appellant in May of 2023. The approval letter states that the Appellant is now approved for MassHealth Standard, thereby receiving the same benefits as she did prior to submitting her renewal application.

The Appellant appeared at the hearing via telephone and testified that she received the notice of approval in May of 2023 and confirmed with the MassHealth representative that she is currently receiving MassHealth Standard benefits. She explained that she submitted 3 appraisals for her vehicle to MassHealth, though it appeared that the MassHealth representative noticed that her vehicle was not supposed to be counted as an asset. In response, the MassHealth representative explained that MassHealth members are allowed 1 vehicle and there is only 1 vehicle in the Appellant's case. The value of that 1 vehicle does not count as an asset. The Appellant expressed her appreciation for resolving this issue.

## **Findings of Fact**

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

1. The Appellant is over the age of 65 and a MassHealth member. (Exhibit 3).
2. On or about April 24, 2023, MassHealth sent a downgrade notice to the Appellant after determining that the Appellant was over asset. (Testimony; Exhibit 1).
3. The value of the Appellant's vehicle placed her over asset for MassHealth Standard benefits. (Testimony; Exhibit 1).
4. The Appellant timely appealed on April 28, 2023. (Exhibit 2).
5. The Appellant's vehicle was not supposed to be counted as an asset and was done so in error. (Testimony).
6. MassHealth rectified this error and sent the Appellant a new notice of approval in May of 2023. (Testimony).

7. The Appellant is currently receiving the same MassHealth benefits as she did prior to submitting her renewal application. (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 the issue has been resolved. Because the appeal issue has been resolved in the Appellant's favor, 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.

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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