

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2303794
<b>Decision Date:</b>	7/24/2023	<b>Hearing Date:</b>	06/06/2023
<b>Hearing Officer:</b>	Radha Tilva	<b>Record Open to:</b>	06/09/2023

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Sophia Beauport-Lafonte, Charlestown  
MEC Rep.



*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>	Approved	<b>Issue:</b>	Eligibility – over 65
<b>Decision Date:</b>	7/24/2023	<b>Hearing Date:</b>	06/06/2023
<b>MassHealth's Rep.:</b>	Sophia Beauport - Lafonte	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center	<b>Aid Pending:</b>	Yes

## 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 determined that appellant's health care coverage would change to MassHealth Senior Buy-In effective May 8, 2023, because appellant's income and assets are too high to get MassHealth Standard benefits (Exhibit 1). The appellant filed this appeal in a timely manner on May 8, 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 determined that appellant's MassHealth coverage would change to MassHealth Senior Buy-In effective May 8, 2023.

## Issue

The appeal issue is whether MassHealth was correct in determining that appellant is eligible for MassHealth Senior Buy-In effective May 8, 2023.

## Summary of Evidence

MassHealth was represented by a case worker who appeared by telephone and testified that appellant, who is over the age of 65, applied to MassHealth on April 10, 2023. The application was processed and a notification requesting verifications was sent on April 11, 2023. The verifications were received and processed and appellant was downgraded from her existing MassHealth Standard benefits to MassHealth Buy-In due to an increase in her income. The appellant's income from Social Security was increased to \$1,248.00 due to a cost-of-living adjustment (COLA). The income limit for MassHealth Standard benefits for a household size of one is \$1,215.00. With the \$20.00 PCA disregard the appellant's income is still over the income limit at \$1,228.00. The appellant is currently protected and on MassHealth Standard benefits for the pendency of the appeal.

The MassHealth representative explained that MassHealth Senior Buy-In covers the costs associated with appellant's Medicare Part A and B premium. The appellant also has Health Safety Net benefits (MassHealth testimony).

The appellant appeared by telephone. The appellant testified that she does not have any disabilities. The appellant further testified that MassHealth had approved dental work last year but was unable to get the treatment because she completed MassHealth's recertification process during that time and was denied MassHealth Standard benefits (which would have covered the requested dental work). The appellant's rent went up this year and her SNAP benefits went down. The appellant's Social Security benefits increased in January of this year and appellant was getting approximately \$1,148.00 a month before that. The appellant testified that she would rather give her Social Security increase back so that she can continue with her MassHealth benefits.

At the end of the hearing the record was left open for MassHealth to consider whether 130 CMR 520.015(F) was applicable to the case to determine if the COLA increase could be disregarded in MassHealth's income calculation. On June 9, 2023, the MassHealth representative responded and stated that the income cannot be adjusted according to 130 CMR 520.015(F) because the member is still over the income limit and at 101.1% of the federal poverty level (Exhibit 5). The Hearing Officer asked for clarification that same day and the MassHealth case worker stated that the COLA increase was accounted for and the member was currently at 101.1% of the FPL. The MassHealth representative provided a breakdown showing that appellant had a gross income of \$1,148.00 in 2022 and \$1,248.00 in 2023 (Exhibit 5). With the \$20.00 disregard the income for 2023 was at \$1,228.00 which put appellant at 101.1% of the FPL (Exhibit 5).

## Findings of Fact

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

1. Appellant is over the age of 65, living in the community, and applied for MassHealth benefits on April 10, 2023.
2. MassHealth processed the application and sent a notice on April 11, 2023 requesting verifications.
3. The verifications were received and appellant was downgraded from her existing MassHealth Standard benefits to MassHealth Buy-In due to an increase in her income.
4. Appellant's income from Social Security in 2022 was \$1,148.00 per month.
5. Due to a COLA, appellant's income increased to \$1,248.00 per month effective January 2023.
6. The income limit for a household size of one for MassHealth Standard benefits is \$1,215.00 a month.

## **Analysis and Conclusions of Law**

The issue at hand is whether MassHealth correctly calculated appellant's income for MassHealth eligibility purposes. Appellant was previously eligible for MassHealth Standard benefits, however, due to a cost-of-living adjustment appellant now receives \$1,248.00 per month of Social Security income which puts her over the income limit of \$1,215.00 for a household size of one. MassHealth does not contest that appellant's income increased due to a cost-of-living adjustment. The issue, however, is whether that increase should have been disregarded in MassHealth's calculation of appellant's income. The following is the relevant regulation:

520.015: Noncountable Income. The following types of income are not considered in determining the financial eligibility of the applicant or member: . . .

(F) the amount of the increase due to a social security cost-of-living adjustment (COLA), if the amount of such increase can be verified, until the subsequent federal-poverty-level adjustment for applicants and members who are community residents;

Based on 130 CMR 520.015(F) MassHealth erred in counting appellant's COLA increase in their income calculation. It is uncontested that prior to the COLA appellant was receiving \$1,148.00 per month from Social Security. If the \$100.00 increase were disregarded under 130 CMR 520.015(F) appellant would be under the income limit of \$1,215.00 and thus eligible for MassHealth Standard benefits. This appeal is APPROVED.

## **Order for MassHealth**

Remove aid pending and recalculate income and eligibility based on the analysis above. Approve appellant for MassHealth Standard benefits with no lapse in coverage.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129