

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2303982
<b>Decision Date:</b>	8/4/2023	<b>Hearing Date:</b>	06/30/2023
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Maria Piedade – Taunton Ongoing



*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>	Denied	<b>Issue:</b>	Eligibility – Community Benefits
<b>Decision Date:</b>	8/4/2023	<b>Hearing Date:</b>	06/30/2023
<b>MassHealth's Rep.:</b>	Maria Piedade	<b>Appellant's Rep.:</b>	Son
<b>Hearing Location:</b>	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 May 1, 20223, MassHealth terminated the appellant's MassHealth Standard coverage because she did not return requested verifications. (Exhibit 1; 130 CMR 515.008.) On May 10, the appellant was approved for the Senior Buy In benefit. (Exhibit 2.) The appellant filed this timely appeal on May 12, 2023.<sup>1</sup> (Exhibit 3; 130 CMR 610.015(B).) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth Standard for not submitting verifications in response to an annual review process. MassHealth then approved the appellant for the Senior Buy In benefit because she had assets in excess of the limit for the Standard benefit.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, 516.001, and

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<sup>1</sup> This appeal was called in by the appellant's son. The Board of Hearings initially dismissed this appeal for lack of authority. The appellant signed a fair hearing request authorizing her son to be her appeal representative on May 23. (Exhibit 4.)

519.005, in terminating the appellant's coverage and then only approving her for Senior Buy In benefits.

## **Summary of Evidence**

The appellant was sent an annual request for verifications to recertify her continuing eligibility for MassHealth benefits on or around January 11, 2023. This information was due within 45 days, but nothing was returned by the member. On May 1, 2023, MassHealth terminated the appellant's Standard coverage because MassHealth could not recertify her continuing eligibility. MassHealth's representative confirmed that the termination notice was delayed because of protections that were in place during the Federal Public Health Emergency ("FPHE"), which lifted on April 1, 2023. After the termination notice was sent out, the appellant submitted the requested verifications. However, these financial records showed that the appellant had assets of about \$7,500. Her income remains below the threshold for MassHealth Standard benefits, but she needs to reduce her assets below \$2,000 before Standard can be reinstated.

The appellant's son was aware of the situation and that the appellant's assets needed to be reduced. However, he was frustrated by the timeline surrounding this appeal. He understood that if his mother simply gave away the money, it may impact her eligibility for long-term-care benefits in the future. There were also several household issues that needed to be addressed, upon which he could spend the excess assets, but it would take him time to set up contractors to fix the roof and take care of trees on the property. He was also concerned about her home being countable once if his mother did require long-term-care benefits in the future. He was informed that these were all issues that could be addressed if the appellant ever required long-term-care benefits, but that at this point she could not be eligible for MassHealth Standard until she showed her assets were below \$2,000.

The appellant's son was also frustrated because he believed that if he had completed the renewal in January when it was due, his mother would have been moved to the back of the line for post-FPHE review. He wanted MassHealth to treat him as though he had completed the review in a timely manner, reinstate the appellant's FPHE protection and then re-assess her eligibility toward the end of MassHealth's FPHE unwind process. He did not have any evidence that this is how the appellant would have been treated if he had responded in a timely manner, nor any evidence that the appellant was being treated differently than others during the FPHE unwinding process.

## **Findings of Fact**

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

1. MassHealth sent out a request for resource verifications to recertify eligibility on or around January 11, 2023, which was due back within 45 days. Nothing was returned. (Testimony by MassHealth's representative.)

2. The appellant is an elderly individual with assets in excess of \$2,000. (Testimony by MassHealth's and the appellant's representatives.)
3. On or around May 1, 2023, MassHealth terminated the appellant's Standard coverage because she failed to return her renewal. (Exhibit 1.)
4. MassHealth delayed terminating the appellant's coverage due to the FPHE. The FPHE protections were lifted on April 1, 2023, and the appellant was terminated. Once the appellant returned the requested verifications, she was approved for Senior Buy In benefits because her assets are over \$2,000. (Exhibit 3; Testimony by MassHealth's representative.)
5. The appellant does not dispute MassHealth's substantive decision. The appellant's son feels that the appellant's benefits would not have been terminated until later if the asset verifications had been completed in a timely fashion. (Testimony by appellant's representative.)

## Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must apply for benefits, and MassHealth reviews eligibility every 12 months. (See 130 CMR 516.001, 516.007.) Members must cooperate with MassHealth's requests for "information necessary to establish and maintain eligibility ... ." (130 CMR 515.008(A).) The eligibility requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

### 519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), 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 percent 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.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), 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: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

The appellant's representative acknowledged that the appellant did not comply with MassHealth's request to information to recertify her eligibility in a timely manner. Further, the appellant's assets are acknowledged to be over \$2,000. She is not eligible for MassHealth Standard benefits until she reduces her assets. Therefore, this appeal is DENIED. (See 130 CMR 515.008, 519.005.) Even if this appeal could address the appellant's true dispute with MassHealth, the appellant adduced no evidence at hearing that they were treated any differently than anyone else in their position. The appellant's theory is that, had they completed their renewal in a timely fashion they would have been treated differently, but this simply confirms the fact that they did not complete the renewal in a timely fashion.

## **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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Christopher Jones  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780