

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2304254
Decision Date:	8/14/2023	Hearing Date:	06/26/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone
Pro se

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

Appeal Decision:	Denied	Issue:	Eligibility 65+; Over-Income
Decision Date:	8/14/2023	Hearing Date:	06/26/2023
MassHealth's Rep.:	Yassory Pena	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 May 15, 2023, MassHealth notified the Appellant that it made a change to his deductible amount because he has more countable income than MassHealth Standard or Limited benefits allow. (130 CMR 520.002; 520.028; Exhibit 1). The Appellant filed this appeal in a timely manner on May 20, 2023. (130 CMR 610.015(B); Exhibit 2). Reduction of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the Appellant that it made a change to his deductible amount because he has more countable income than MassHealth Standard or Limited benefits allow.

Issue

The appeal issue is whether MassHealth was correct in changing the Appellant's deductible amount because he has more countable income than MassHealth Standard or Limited benefits

allow.

Summary of Evidence

The MassHealth representative appeared at the hearing via telephone and testified as follows: The Appellant previously received Health Safety Net benefits prior to receiving the May 15, 2023 notice at issue in this appeal. By way of background, MassHealth received a renewal application from the Appellant and his spouse in March of 2023. The Appellant and his spouse, however, were both approved for different coverage. The Appellant's spouse was approved for MassHealth Standard because she requires additional PCA services whereas the Appellant does not. As for the Appellant, the MassHealth representative explained that his income is over the guidelines for MassHealth coverage and therefore MassHealth continued his Health Safety Net coverage. Additionally, MassHealth will pay for the Appellant's Medicare premium. The MassHealth representative further explained that the limit for MassHealth is \$ 1644.00 for a household of 2 and the Appellant's current (social security) gross income is \$ 1867.00 per month. With respect to the notice that is the subject of this appeal, it was generated after the Appellant had been approved for Health Safety Net coverage. The May 15, 2023 notice was sent to the Appellant for informational purposes only, simply to inform him that MassHealth re-calculated his eligibility based upon updated social security income information but it did not change the Appellant's eligibility with Health Safety Net in any manner. Rather, the notice was sent to the Appellant to notify him that his deductible was re-calculated. The MassHealth representative reiterated that the Appellant's eligibility remains the same as of the date of this hearing.¹

The Appellant appeared at the hearing via telephone and testified that he and his wife worked together with MassHealth on filling out the renewal application. He explained that he does not understand why MassHealth missed him during the renewal process. The Appellant explained that he is currently taking care of his wife because she cannot cook anymore, and he cannot leave her unattended. The Appellant testified that he pays rent and does not much money which is the reason that he applied for MassHealth Standard, mainly because he cannot leave his wife alone.

In response, the MassHealth representative explained that the Appellant was not excluded from the renewal application in March of 2023, he was part of the renewal process. The eligibility process was a little different for the Appellant as opposed to his spouse though and the income guidelines placed the Appellant over the limit for MassHealth coverage. The Appellant's spouse reported that she requires PCA assistance, as the Appellant stated, and therefore she was approved for MassHealth Standard. If the Appellant needs assistance with a PCA agency to obtain services for his spouse, he will need to contact a PCA agency in his area. For the purposes of this appeal though, the Appellant's eligibility was calculated and MassHealth sent him a notice informing him that his

¹ The MassHealth representative testified that the Appellant was sent an approval notice for Health Safety Net coverage on or about April 19, 2023.

benefits for assistance with Medicare have been upgraded. The Appellant maintains Health Safety Net coverage which remains unchanged. The MassHealth representative reiterated that the Appellant was unable to receive MassHealth Standard coverage because he was over the income limit.

The Appellant next made inquiry as to whether he would need to pay out of pocket for doctor's appointments or prescriptions with Health Safety Net coverage. The MassHealth representative explained that the Appellant will not need to do so if he is seen at a community health center. Further, most of the community health centers have a pharmacy within their location.² Conversely, if the Appellant were to be seen by a private doctor or specialist then he will have to pay out of pocket as a secondary to his Medicare. The Appellant further made inquiry as to whether his current medical provider will accept Health Safety Net coverage. In response, the MassHealth representative suggested that the Appellant contact his medical provider to ensure that his coverage is accepted. Alternatively, the Appellant can call Health Safety Net to make inquiry.³

The Appellant inquired about his private health insurance and whether he should continue making premium payments, because he is paying approximately \$ 140.00 per month. The MassHealth representative explained that supplemental insurance does carry a premium, however, that is a decision for the Appellant to make as she cannot advise him on that topic. The MassHealth representative further explained that Health Safety Net is not full coverage, rather it is emergency coverage that can only be used at community health centers and hospitals. Thus, the Appellant should make that decision based on his current needs and prescriptions.

Findings of Fact

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

1. The Appellant is over the age of 65. (Exhibit 2).
2. On or about May 15, 2023, MassHealth notified the Appellant that it made a change to his deductible amount because he has more countable income than MassHealth Standard or Limited benefits allow. (Testimony; Exhibit 1).
3. The Appellant timely appealed on May 20, 2023. (Exhibit 2).
4. The Appellant's income was calculated at \$ 1867.00 per month, less a \$ 20.00 unearned income disregard, for a total of \$ 1847.00 per month. (Exhibit 1, p. 2).

² The MassHealth representative testified that there may be a \$ 1.00-\$ 3.00 co-payment for prescriptions.

³ The MassHealth representative testified that the Appellant the pertinent telephone number to contact Health Safety Net is 1-877-910-2100.

5. The Appellant resides with his spouse. (Testimony).
6. The monthly 100% of the Federal Poverty Level (FPL) limit for a household of 2 is \$ 1644.00. (Testimony).
7. The May 15, 2023 notice was sent to the Appellant for informational purposes only, should he opt to meet his deductible. (Testimony).
8. The Appellant's benefits for Medicare assistance have been upgraded. (Testimony).

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.002: Financial Responsibility, in the determination of eligibility for MassHealth, the total countable-income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit, unless one spouse is covered by MassHealth under a home-and-community-based service waiver, as described in 130 CMR 519.007(B): *Home-and Community-based Services Waiver-Frail Elder*.

(130 CMR 520.002(A)(1)).

In accordance with 130 CMR 519.005: Community Residents 65 Years of Age or 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% 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.

(130 CMR 519.005(A)).

In the present case, the Appellant is over the age of 65. (See, Exhibit 2). The Appellant and his spouse comprise a household of 2, with a countable income calculated at \$ 1867.00 per month, less a \$ 20.00 unearned income disregard, for a total of \$ 1847.00 per month. (See, Exhibit 1, p. 2). The monthly 100% Federal Poverty Level (FPL) limit for a household of 2 is \$ 1644.00.⁴ Thus, the Appellant's income exceeds the FPL to receive MassHealth benefits.

With respect to the Appellant's deductible, 130 CMR 520.028: Eligibility for a Deductible, states as follows: The following individuals may establish eligibility by meeting a deductible:

⁴ See, <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines>.

- (A) former SSI recipients who are not eligible under the Pickle Amendment;
 - (B) community-based individuals whose countable-income amount exceeds the 100% federal poverty level income standards;
 - (C) long-term care facility residents whose income, after general deductions described in 130 CMR 520.026, exceeds the public rate in a long-term care facility;
 - (D) disabled adult children whose income exceeds the standards set forth in 130 CMR 519.004(A): Eligibility Requirements; and
 - (E) persons who are eligible for an increased disregard as described at 130 CMR 520.013(B).
- (130 CMR 520.028).

Here, MassHealth notified the Appellant that there was a change in his deductible amount on or about May 15, 2023. (See, Exhibit 1). Moreover, the MassHealth representative testified that the notice was sent to the Appellant should he opt to meet his deductible. (See, 130 CMR 520.028). In the event that the Appellant were to meet his deductible, he may be able to obtain benefits by sending bills for medical services that he received before or during the deductible period. (See, 130 CMR 520.031; Exhibit 1, p. 1). While it is understandable that the Appellant has other monetary bills and responsibilities, unfortunately that does not serve as a separate basis for approval. Therefore, MassHealth was correct in determining that the Appellant has more countable income than MassHealth benefits will allow. As such, this appeal is denied.⁵

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.

⁵ This denial does not preclude the Appellant from contacting Health Safety Net regarding his existing coverage nor from opting to meet his deductible, as re-calculated by MassHealth.

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