

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2304361
Decision Date:	6/29/2023	Hearing Date:	06/27/2023
Hearing Officer:	Patricia Mullen		

Appearance for Appellant:



Appearance for MassHealth:

Elizabeth Rodriguez, Tewksbury MEC



*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 - Income
Decision Date:	6/29/2023	Hearing Date:	06/27/2023
MassHealth's Rep.:	Elizabeth Rodriguez, Tewksbury MEC	Appellant's Rep.:	Authorized Rep.
Hearing Location:	Tewksbury MassHealth Enrollment Center (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 19, 2023, MassHealth denied the appellant's application for MassHealth Standard benefits because MassHealth determined that appellant's income exceeds the limit for MassHealth Standard; MassHealth determined that appellant may be able to establish eligibility for MassHealth benefits by meeting a six-month deductible of \$3,600 (see 130 CMR 520.028 and Exhibit 1). The appellant filed this appeal in a timely manner on May 26, 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 Standard benefits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.028, in determining that the appellant's income exceeds the limit for MassHealth Standard for persons age 65 and older.

Summary of Evidence

The appellant was represented telephonically by his authorized representative. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center ("MEC") in Tewksbury. The MassHealth representative stated that MassHealth received appellant's application for MassHealth Standard benefits on April 12, 2023. The MassHealth representative testified that MassHealth was able to verify appellant's information, and ultimately issued a notice on May 19, 2023, informing appellant that he exceeded the income limit for MassHealth Standard benefits. (Exhibit 1). The MassHealth representative stated that appellant receives \$221.69 in monthly annuity payments and \$2,159.90 in gross monthly Social Security Income, for a total of \$2,381.59 in gross monthly income. The MassHealth representative confirmed that appellant is over the age of 65 and lives in a one person household in the community, and noted that the income limit for MassHealth Standard for persons age 65 and older living in the community is 100% of the federal poverty level, or \$1,215.00 a month for a family size of one. The MassHealth representative stated that the appellant's countable income exceeds \$1,215.00 a month and thus appellant is not financially eligible for MassHealth Standard.

The MassHealth representative testified that MassHealth calculated a 6 month deductible of \$3,600.00. (Exhibit 1). The MassHealth representative stated that appellant filled out the supplemental form regarding his need for personal-care attendant ("PCA") services, and MassHealth thus applied a PCA disregard of \$1,094.00 in calculating appellant's 6 month deductible. (Exhibit 1). The deductible must be met every 6 months before eligibility for MassHealth could be established. (Exhibit 1).

Appellant's representative testified that appellant is over the age of 65 and that he lives alone. Appellant's representative confirmed that appellant receives \$221.69 in monthly annuity payments. She further confirmed that appellant receives \$1,995.00 in net monthly Social Security Income after his \$164.90 monthly Medicare premium is subtracted, indicating a gross monthly Social Security Income of \$2,159.90. Appellant's representative inquired as to whether appellant's monthly rent expenses mattered for purposes of countable income, and was informed that MassHealth only considers an applicant's gross income and that such expenses are not deducted for purposes of determining countable income for MassHealth eligibility.

The MassHealth representative indicated that MassHealth did not have any record of appellant being on the Home- and Community-based Services Frail Elder Waiver ("Frail Elder Waiver")

program, under which the income cutoff for MassHealth eligibility is raised to 300% of the federal benefit rate. The MassHealth representative was unable to testify as to the exact value of 300% of the federal benefit rate at hearing. The hearing officer suggested that appellant reach out to Elder Services so that he may be evaluated for the Frail Elder Waiver program.

Findings of Fact

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

1. The appellant is over age 65 and lives in a one person household in the community.
2. On April 12, 2023, MassHealth received appellant's initial application for MassHealth Standard benefits; appellant also completed a supplemental form regarding his need for PCA services, and MassHealth allowed appellant a \$1,094.00 PCA disregard.
3. On May 19, 2023, MassHealth issued a notice to appellant informing him that his income exceeded the eligibility limit for MassHealth Standard benefits, and that appellant could establish eligibility for MassHealth Standard benefits by meeting a six month deductible of \$3,600.00.
4. 100% of the federal poverty level is \$1,215.00 a month for a family size of one.
5. 133% of the federal poverty level is \$1,616.00 a month for a family size of one.
6. The appellant receives \$2,159.90 in gross monthly Social Security Income and \$221.69 in monthly annuity payments, for a total of \$2,381.59 in gross monthly income.

Analysis and Conclusions of Law

The regulations at 130 CMR 515.000 through 520.000 provide the requirements for MassHealth eligibility for persons age 65 and older. (130 CMR 515.002). A non-institutionalized person age 65 and older may establish eligibility for MassHealth Standard coverage if the countable income is less than or equal to 100% of the federal poverty level. (130 CMR 519.005). 100% of the federal poverty level for a family of one is \$1,215.00 per month. The appellant's gross unearned income totals \$2,381.59 per month. MassHealth allows a PCA deduction pursuant to 130 CMR 520.013(B) in determining countable income where an over 65 applicant is either "receiving personal-care attendant services paid for by the MassHealth agency, or [has] been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services." (130 CMR 520.013(B)). However, if the applicant's countable income exceeds 133% of the federal poverty level prior to applying the PCA disregard, then

eligibility for MassHealth benefits must be established by meeting a six month deductible as outlined below. (130 CMR 520.013(B)(3); 130 CMR 520.028). Here, the appellant's countable income before accounting for any PCA deduction is \$2,381.59 per month, which exceeds 133% of the federal poverty level, or \$1,616.00 a month for a household of one. Accordingly, appellant is not financially eligible for MassHealth Standard for community residents at this time, notwithstanding any potential effect of the PCA disregard that MassHealth has allowed. (130 CMR 520.012(B)(3)). Therefore, the appellant must meet the six month deductible outlined in the following paragraph before MassHealth eligibility can be established.

The appellant must meet a six month deductible before MassHealth eligibility can be established. (130 CMR 519.005(B); 130 CMR 520.028). The appellant's countable income for the deductible calculation is \$1,287.00, which MassHealth reached by subtracting the PCA disregard of \$1,094.00 from appellant's gross unearned monthly income of \$2,381.59. The MassHealth Income Standard applicable to an individual age 65 or older residing in the community is \$522.00 per month for a household of one. (130 CMR 520.030). The deductible is the total dollar amount of incurred medical expenses that an individual is responsible for before MassHealth eligibility is established. (130 CMR 520.031). The deductible period is 6 months and the deductible is determined by multiplying the excess monthly income by 6. (130 CMR 520.029, 520.030). The excess monthly income is the amount by which the appellant's countable income exceeds the MassHealth Income Standard. (130 CMR 520.030). In the present case, the appellant's countable income of \$1,287.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$765.00. MassHealth further deducts appellant's monthly Medicare premium of \$164.90 from this amount to reach a monthly deductible amount of \$600.10. (130 CMR 520.032(B)). This amount is multiplied by 6 to determine the 6 month deductible of \$3,600.00. (Exhibit 1, p. 3).

Accordingly, the appellant is responsible for \$3,600.00 of incurred medical expenses for the 6 month deductible period of April 1, 2023 to October 1, 2023 before eligibility for MassHealth Standard can be established. (Exhibit 1). MassHealth's action is upheld and the appeal is denied.

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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Elizabeth Rodriguez, Tewksbury MassHealth Enrollment Center
