

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2305225
<b>Decision Date:</b>	07/27/2023	<b>Hearing Date:</b>	07/26/2023
<b>Hearing Officer:</b>	Patricia Mullen		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Worthen, Springfield 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Financial eligibility
<b>Decision Date:</b>	07/27/2023	<b>Hearing Date:</b>	07/26/2023
<b>MassHealth's Rep.:</b>	Kelly Worthen, Springfield MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center (remote)		

### 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 June 16, 2023, MassHealth informed the appellant that her MassHealth coverage would end on August 31, 2023, because MassHealth determined that the appellant's income and assets exceed the limit for MassHealth Standard for persons age 65 and older. (see 130 CMR 519.005; 520.003; and Exhibit 1). The appellant filed this appeal in a timely manner on June 23, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Termination of assistance is valid grounds for appeal. (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth informed the appellant that her MassHealth coverage would terminate on August 31, 2023.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005; 520.003, in determining that the appellant's income and assets exceed the limit for MassHealth Standard for persons age 65 and older.

## Summary of Evidence

The appellant appeared telephonically at the hearing and verified her identity. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Springfield. The MassHealth representative stated that the appellant is over age 65 and lives in a one person household. The MassHealth representative noted that the appellant has been open on MassHealth CommonHealth, for disabled, working adults, since August, 2019. (Exhibit 5). The MassHealth representative stated that MassHealth reviewed the appellant's case, after the Public Health Emergency (PHE) protections were lifted. The MassHealth representative stated that the appellant is no longer working and thus is no longer eligible for MassHealth CommonHealth for disabled, working adults. The MassHealth representative stated that the appellant's case was then reviewed under the criteria for MassHealth Standard for persons age 65 and older. The MassHealth representative testified that the income limit for MassHealth Standard is 100% of the federal poverty level, or \$1,215.00 a month for a family size of one. The MassHealth representative testified that the asset limit for MassHealth Standard is \$2,000.00 for a family size of one. The appellant receives a gross monthly pension of \$203.47 and gross monthly Social Security of \$2,339.90 for total gross monthly income of \$2,543.37. (Testimony, exhibit 1, p. 3). The MassHealth representative stated that MassHealth regulations allow for a \$20.00 deduction in calculating countable income and, thus, the appellant's countable income is \$2523.00. (Exhibit 1, p. 3). The MassHealth representative stated that because the appellant's countable income exceeds \$1,215.00 a month, she is not financially eligible for MassHealth Standard.

The MassHealth representative noted further that the appellant's assets total \$9,997.61 (\$9,975.74 from the cash surrender value of a life insurance policy and \$21.87 in a bank account.) (Exhibit 4). The appellant pointed out that the life insurance policy is now owned by her daughter and the MassHealth representative agreed that she would remove the life insurance policy cash surrender value as a countable asset. (Exhibit 4). The MassHealth representative stated that the appellant's assets are now below the MassHealth asset limit of \$2,000.00 for a family size of one.

The MassHealth representative noted that the appellant could become eligible for MassHealth Standard if she met the 6 month deductible of \$11,016.00, calculated pursuant to MassHealth regulations, or if she was found eligible for a Frail Elder Waiver by her local elder services agency. (Exhibit 1, p. 3). The MassHealth representative reported that the income limit for the Frail Elder program is \$2,742.00 a month, and the appellant is under this limit. The MassHealth representative noted that if the appellant was able to work at least 10 hours a week, at any type of

job, her CommonHealth coverage would continue.

The appellant testified that she just had total knee replacement surgery and cannot work at this time. The appellant noted that the elder services agency for her area is Western Mass Elder Services and she stated that she would contact them about an evaluation for the Frail Elder Waiver.

## **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.
2. The appellant has been open on MassHealth CommonHealth, for disabled, working adults since August, 2019.
3. MassHealth reviewed the appellant's case, after the PHE protections were lifted.
4. The appellant is no longer working.
5. 100% of the federal poverty level is \$1,215.00 a month for a family size of one.
6. The appellant has gross monthly income totaling \$2,543.37.
7. The appellant's assets are under \$2,000.00.
8. The appellant recently had total knee replacement surgery and cannot work at this time.
9. The appellant is going to contact her elder services agency about an evaluation for the Frail Elder Waiver.

## **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 \$2,543.00 per month. After allowing the \$20.00 deduction for unearned income, the appellant's countable unearned income is \$2,523.00. This amount exceeds 100% of the federal poverty level for a family of one. The appellant is not financially

eligible for MassHealth Standard at this time. The appellant would need to meet a six month deductible before eligibility for MassHealth Standard can be established. (130 CMR 520.028). The appellant's countable income for the deductible calculation is \$2,523.00. 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 \$2,523.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$2001.00. From this amount, the appellant's monthly Medicare premium of \$164.90 is deducted. (Exhibit 1, p. 3). The resulting amount of \$1,836.10 is multiplied by 6 to determine the 6 month deductible of \$11,016.00. (Exhibit 1, p. 3).

Accordingly, the appellant would be responsible for \$11,016.00 of incurred medical expenses for the 6 month deductible period of May 1, 2023 to November 1, 2023 before eligibility for MassHealth Standard could be established.

If the appellant is found clinically eligible for the Frail Elder Waiver, her income is under the limit for the waiver program, and thus she would be approved for MassHealth Standard under the waiver.

If the appellant is able to work at least 10 hours a week, and getting paid for such work, she can submit verification of the employment to MassHealth and would continue to be eligible for MassHealth CommonHealth for disabled, working adults.

MassHealth's action is upheld and the appeal is denied.

## **Order for MassHealth**

Remove the cash surrender value of the life insurance policy as a countable asset, as agreed to at the hearing; the appellant's assets are now below \$2,000.00.

Continue the appellant's CommonHealth coverage through to August 31, 2023, as set forth in the notice dated June 16, 2023.

## **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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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center