

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305262
Decision Date:	07/27/2023	Hearing Date:	07/25/2023
Hearing Officer:	Patricia Mullen		

Appearance for Appellant:  
Pro se

Appearance for MassHealth:  
Allison Gates, 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>	07/25/2023
<b>MassHealth's Rep.:</b>	Allison Gates, Springfield MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center (remote)	<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 June 22, 2023, MassHealth terminated the appellant's MassHealth Standard benefits because MassHealth determined that the appellant's income exceeds the limit for MassHealth Standard for persons age 65 and older. (see 130 CMR 519.005(A) and Exhibit 1). The appellant was approved for MassHealth Buy In (SLMB Part B), whereby MassHealth pays the appellant's Medicare premium. (130 CMR 519.010 and Exhibit 1). The appellant filed this appeal in a timely manner on June 28, 2023 and received aid pending appeal. (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 terminated the appellant's MassHealth Standard benefits.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002(A), in determining that the appellant's income exceeds the limit for MassHealth 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 in Springfield. The appellant was open on MassHealth CarePlus, with most recent coverage beginning in March, 2019, and remained open on MassHealth CarePlus, without review, during the Public Health Emergency (PHE). (Exhibit 4). The appellant turned [REDACTED] during the PHE, and in October, 2022, MassHealth converted her to MassHealth Standard and she remained protected on MassHealth Standard until the PHE lifted on March 31, 2023. (Exhibit 4). The MassHealth representative stated that MassHealth reviewed the appellant's case after the PHE ended and determined that she lives in a one person household with gross Social Security income of \$1,815.00 a month. The MassHealth representative stated that MassHealth deducts \$20.00 from unearned income when determining MassHealth countable income and, thus, the appellant's countable income is \$1,795.00 a month. The MassHealth representative stated that the income limit for MassHealth Standard for persons age 65 and older is 100% of the federal poverty level, or \$1,215.00 a month for a family of one. The MassHealth representative stated that because the appellant's income exceeds this amount, she is not financially eligible for MassHealth Standard. The MassHealth representative noted that the appellant could be found eligible for MassHealth Standard after meeting a 6 month deductible of \$7,638.00 for the period June 22, 2023 to January 1, 2024, or if she was approved for a Frail Elder Waiver (also known as the Home and Community Based Services Waiver). The MassHealth representative stated that the income limit for the Frail Elder Waiver is \$2,742.00 a month for a family of one and the appellant would be eligible for this if she is found clinical eligible for the waiver by a nurse from Elder Services.

The MassHealth representative stated that the appellant was determined eligible for MassHealth Buy In/SLMB plan whereby MassHealth pays the appellant's Medicare premium. The MassHealth representative stated that if the appellant is not found clinically eligible for the Frail Elder Waiver, she should apply for the Medicare Savings Plan (MSP) Senior Buy In/QMB plan because, in addition to covering Medicare premiums, this plan also covers deductibles and copayments.

The appellant stated that her Medicare premium is still coming out of her Social Security check and she has yet to receive the full amount of \$1,815.00 a month. The MassHealth representative stated that Social Security is running about 3 months behind in processing the Buy In cases but the Medicare premium will be paid by MassHealth and added back to the appellant's Social Security check.

The appellant stated that she met with Elder Services and she is going to be evaluated for the Frail Elder Waiver.

## **Findings of Fact**

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

1. The appellant was open on MassHealth CarePlus, with most recent coverage beginning in March, 2019, and remained open on MassHealth CarePlus, without review, during the Public Health Emergency.
2. The appellant turned [REDACTED] during the PHE, and in October, 2022, MassHealth converted her to MassHealth Standard and she remained protected on MassHealth Standard until the PHE lifted on March 31, 2023.
3. MassHealth reviewed the appellant's case after the PHE ended.
4. The appellant lives in a one person household with gross Social Security income of \$1,815.00 a month.
5. 100% of the federal poverty level is \$1,215.00 a month for a family of one.
6. The appellant met with Elder Services and she is going to be evaluated 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 \$1,815.00 per month. After allowing the \$20.00 deduction for unearned income, the appellant's countable unearned income is \$1,795.00. 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 is eligible for MassHealth Buy In for Specified Low Income Medicare Beneficiaries (SLMB) pursuant to 130 CMR 520.011(A), and, under this program, MassHealth pays her monthly Medicare premium.

The appellant would need to meet a six month deductible before MassHealth eligibility can be

established. (130 CMR 520.028). The appellant's countable income for the deductible calculation is \$1,795.00. 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 \$1,795.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$1,273.00. This amount is multiplied by 6 to determine the 6 month deductible of \$7,638.00. (Exhibit 1, p. 2).

Accordingly, the appellant is responsible for \$7,638.00 of incurred medical expenses for the 6 month deductible period of June 22, 2023 to January 1, 2024 before eligibility for MassHealth Standard can be established. MassHealth's action is upheld and the appeal is denied.

It is noted that the appellant is applying for a Frail Elder Wavier and, if she is found clinically eligible for the Frail Elder Waiver, her income is under the limit for the waiver program.

## **Order for MassHealth**

Rescind aid pending and proceed with the action set forth in the notice dated June 22, 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.

---

Patricia Mullen  
Hearing Officer  
Board of Hearings

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