

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied-in-part; Dismissed-in-part	Appeal Number:	2305610
Decision Date:	11/13/2023	Hearing Date:	08/22/2023
Hearing Officer:	Casey Groff, Esq.	Record Closed:	09/13/2023

Appearance for Appellant:



Appearance for MassHealth:

Lindsey Marek, 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

Appeal Decision:	Denied-in-part; Dismissed-in-part	Issue:	Eligibility; Over 65; Community Benefits; Excess Assets
Decision Date:	11/13/2023	Hearing Date:	08/22/2023
MassHealth's Rep.:	Lindsey Marek	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Remote)	Aid Pending:	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 27, 2023, MassHealth informed Appellant that he did not qualify for MassHealth benefits because he had "more countable assets than MassHealth benefits allow" and that his MassHealth Standard benefit would end on July 11, 2023. See Exhibit 1; 130 CMR §§ 520.003 and 520.004. Appellant's power of attorney (POA) filed a timely appeal on Appellant's behalf on July 11, 2023. See Exhibit 2; 130 CMR 610.015(B). Denial of benefits is a valid basis for appeal. See 130 CMR 610.032. A hearing was initially scheduled to take place on August 11, 2023. See Exh. 3. At the request of Appellant, the hearing was rescheduled to August 22, 2023. See Exh. 4. At the conclusion of the hearing, the record was held open for Appellant to submit additional evidence. See Exh. 5, p. 5. The record closed on September 13, 2023. See Exh. 6.

Action Taken by MassHealth

MassHealth determined that Appellant was ineligible for MassHealth benefits because his assets exceeded the regulatory limit and that his coverage would end on 7/11/23.

Issue

The appeal issue is whether MassHealth correctly notified Appellant that his MassHealth Standard and Buy-In benefits would end on 7/11/23 because he owned assets that exceeded program limits.

Summary of Evidence

A MassHealth representative appeared at the hearing by telephone and testified as follows: Appellant is a non-married MassHealth member over the age of 65 and lives in the community in a household size of one (1). Appellant has been enrolled in MassHealth Standard with a Medicare Buy-In benefit since June of 2018. Under the Buy-In benefit, MassHealth paid Appellant's Medicare Part B premium. On April 18, 2023, MassHealth notified Appellant that he needed to complete a renewal application for MassHealth to redetermine his eligibility for continued benefits. Appellant completed and submitted the renewal to MassHealth timely. In the renewal, Appellant disclosed assets that he owned which he had not previously reported to MassHealth, including a life insurance policy with a cash-surrender value of \$23,849.80 and a security valued at \$6,152.11. See Exh. 1, p. 2. Based on the information provided, MassHealth determined that Appellant had a total countable asset amount of \$30,002.89.¹ See Exh. 1, p. 2. To be eligible for MassHealth, individuals 65 years of age and older cannot have assets that exceed \$2,000. Accordingly, through a letter dated June 27, 2023, MassHealth notified Appellant that he was not eligible for benefits because he exceeded the \$2,000 limit by \$28,002.89 and that his coverage would end on July 11, 2023. Id. Because Appellant filed a timely appeal with the Board of Hearings on 7/11/23, his coverage has been protected for the pendency of this appeal.

The MassHealth representative explained that Appellant would need to reduce assets to \$2,000 or below to requalify for Standard, and \$18,200 to qualify solely for the Buy-In benefit. Alternatively, because Appellant has a verified disability on file, he may qualify for CommonHealth if he verified that he met the eligibility criteria of a "working disabled adult." Satisfying the latter option, however, would only cover his health care services but would not establish eligibility for Buy-In.

At the hearing, Appellant's power of attorney (POA) appeared on behalf of Appellant by telephone and agreed with MassHealth's testimony with respect to Appellant's ownership of the life insurance policy and security assets. Appellant's POA requested that the hearing be extended to allow Appellant to submit proof that either he spent down assets for him to qualify for Standard and Buy-In, or, alternatively, submit proof that he qualifies as a working disabled adult for CommonHealth. Appellant's request was granted, and the record remained open for the Appellant to submit additional evidence to establish eligibility; and for MassHealth to review and respond to the new evidence. See Exh. 5, p. 5.

On September 13, 2023, Appellant submitted a signed "working disabled letter." See Exh. 6, p. 3. On review, the MassHealth representative responded that the letter was sufficient verification

¹ Included in the total asset amount was a nominal amount of change held in a bank account. See id.

that Appellant was eligible for CommonHealth and that MassHealth would issue an approval letter notifying him of his coverage accordingly. See id., p. 1.

Findings of Fact

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

1. Appellant is over the age of 65 and lives in the community in a household size of one (1).
2. Appellant has been enrolled in MassHealth Standard with a Medicare Buy-In benefit since June of 2018, through which MassHealth paid for his Medicare Part B premium.
3. On April 18, 2023, MassHealth notified Appellant that he needed to complete an annual renewal for MassHealth to redetermine his eligibility for continued benefits.
4. Pursuant to his completed renewal, Appellant disclosed that he owned assets which he had not previously reported to MassHealth, including a life insurance policy with a cash-surrender value of \$23,849.80 and a security valued at \$6,152.11.
5. Based on the information provided, MassHealth determined that Appellant had a total countable asset amount of \$30,002.89.
6. Through a letter dated June 27, 2023, MassHealth notified Appellant that he was not eligible for MassHealth benefits because his assets exceeded the program limit by \$28,002.89 and that his coverage would end on July 11, 2023.
7. Because Appellant filed a timely appeal of the 6/27/23 notice, Appellant's coverage end-date of 7/11/23 was held pending the outcome of this appeal.
8. At the conclusion of the hearing, BOH granted Appellant's request for additional time to submit evidence of Appellant's eligibility for continued MassHealth benefits.
9. Based on evidence Appellant provided during the record-open period, MassHealth approved Appellant for MassHealth CommonHealth and, through a separate notice, notified him of this new eligibility determination accordingly.

Analysis and Conclusions of Law

The issue on appeal concerns whether MassHealth correctly notified Appellant that his MassHealth Standard and Buy-In benefits would end on 7/11/23 because he owned assets that

exceeded program limits. To qualify for MassHealth Standard, Family Assistance or Limited, individuals 65 years of age or older who live in the community, such as Appellant, must have countable income at or below 100% of the federal poverty level (FPL) *and* have countable assets under \$2,000. See 130 CMR 519.005; see also 130 CMR 520.003(A)(1). In addition, to qualify for a Medicare Savings Program (MSP), also referred to a “Buy-In” benefit, the applicant must verify that their income is not more than \$18,180.² See 130 CMR 520.003(B); see also Eligibility Operations Memo 23-04, EOHHS- MassHealth (February 2023). Countable assets are, by MassHealth definition, all assets that must be included in the determination of eligibility and include assets to which the applicant or member (or their spouse) would be entitled whether or not those assets are received. See 130 CMR 520.007. MassHealth will count the value of any securities or life insurance policies (cash-surrender value) for purposes of determining whether an individual is financially eligible for MassHealth benefits. See 130 CMR 520.007(D)-(E). It is the responsibility of the member or applicant to verify the total amount of countable assets. Id.

In this case, MassHealth determined that Appellant did not qualify for continued coverage of his MassHealth benefit because he reported, through his annual renewal, that he owned a life insurance policy with a cash surrender value of 23,849.80, as well as a security valued at \$6,152.11. At hearing, Appellant’s POA did not dispute that Appellant owned these assets, nor did she dispute their purported values. Because the evidence undisputedly shows that Appellant’s assets exceed both the respective \$2,000 and \$18,180 limits to qualify for Standard and MSP Buy-In, MassHealth did not err in issuing the 6/27/23 notice.

Based on the forgoing, the appeal is DENIED-in-part as MassHealth correctly issued the 6/27/23 notice. The appeal is DISMISSED-in-part as Appellant successfully demonstrated, post-hearing, that Appellant was eligible for an alternative coverage so that Appellant would not have a lapse in health care coverage.³

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.

² For married individuals, MassHealth sets forth different asset limits under its various coverage types, including Standard and Buy-In. See id.

³ Any determination or action by the agency, other than the 6/27/23 notice, is beyond the scope of the instant appeal and would carry separate appeal rights in accordance with 130 CMR 610.000 et. seq.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88
Industry Avenue, Springfield, MA 01104

Appellant Representative, [REDACTED]