

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2305937
Decision Date:	10/10/2023	Hearing Date:	08/22/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

Via telephone

Pro se;



Appearance for MassHealth:

Via telephone

Janine Monico



*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:	Dismissed	Issue:	Eligibility; Over 65; Medicare Premium
Decision Date:	10/10/2023	Hearing Date:	08/22/2023
MassHealth's Rep.:	Janine Monico	Appellant's Rep.:	<i>Pro se</i> ; [REDACTED]
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 23, 2023, MassHealth denied the Appellant's Medicare Savings Program application for payment of his Medicare premium because MassHealth determined that the Appellant is over the allowable income limits. (130 CMR 519.011(B); Exhibit 1). The Appellant filed this appeal in a timely manner on July 14, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for payment of his Medicare premium.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant was over the allowable MassHealth income limits for payment of his Medicare premium under the Medicare Savings Program.

Summary of Evidence

The MassHealth representative appeared at the hearing *via* telephone and testified as follows: MassHealth received the Appellant's Medicare Savings Program (hereinafter "MSP") application. His application was denied because the Appellant's monthly gross income exceeds the allowable income limits. The MassHealth representative explained that the different portions of the MSP for a married couple for the qualified Medicare beneficiary is 190% of the Federal Poverty Level (hereinafter "FPL"), or \$ 3,123.00. The income limit for a specified low-income Medicare beneficiary for a married couple equates to approximately \$ 3,123.00 - \$ 3,451.00. The qualifying individual portion of the MSP program income limit equals \$ 3,451.00 - \$ 3,698.00. On his application, the Appellant reported a gross monthly income of \$ 1,750.00 (social security) and \$ 1,029.00 (pension), which totals \$ 2,779.00 per month in (gross) unearned income. The MassHealth representative further explained that MassHealth previously verified that the Appellant's monthly gross income as \$ 1,751.00 (social security) and \$ 1,075.96 (pension and annuity) totaling a gross monthly unearned income of \$ 3,402.11. She testified that MassHealth also verified the Appellant's earned income and made inquiry as to whether he is still employed.

The Appellant and his case manager appeared at the hearing telephonically and testified that he is currently unemployed. In response, the MassHealth representative testified that, excluding the Appellant's previously factored-in earned income, he qualifies for the specified low-income Medicare beneficiary portion. This portion solely pays for the Appellant's Part B premium. The Appellant testified that he accepts this option and made inquiry as to whether his premium is still covered (\$ 164.90). The MassHealth representative confirmed that the Appellant's premium is covered. She explained that the Appellant is responsible for paying the 20% that Medicare does not cover though. The Appellant explained that he wanted to ensure his income was reported correctly because there was confusion regarding his social security income, which made him nervous. The MassHealth representative testified that she would reinstate the MSP program for the Appellant. She explained that it may take a few months for the Appellant's premium to stop being withdrawn from his social security, however, he will be reimbursed. Further, all programs within the MSP include Health Safety Net coverage. The Appellant expressed his appreciation.

Findings of Fact

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

1. The Appellant is over the age of 65. (Exhibit 3).
2. On May 23, 2023, MassHealth denied the Appellant's MSP application for payment of his Medicare premium due to being over the allowable income limits. (Testimony, Exhibit 1).

3. The Appellant timely appealed on July 14, 2023. (Exhibit 2).
4. On his MassHealth application, the Appellant reported a gross monthly unearned income of \$ 2,779.00. (Testimony).
5. MassHealth previously verified that the Appellant's gross monthly unearned income equals \$ 3,402.11. (Testimony).
6. MassHealth previously verified the Appellant's earned income. (Testimony).
7. The Appellant is no longer employed. (Testimony).
8. The Appellant now qualifies for the specified low-income Medicare beneficiary program which solely pays for his Medicare Part B premium. (Testimony).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the Appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;
- (6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;
- (7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;

- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;
- (9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;
- (10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or
- (11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

In the present case, the Appellant was satisfied with the explanation given at the hearing by the MassHealth representative. Because the appeal issue has been resolved in the Appellant's favor, there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed.

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.

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