

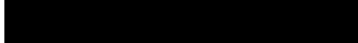
Office of Medicaid BOARD OF HEARINGS

Appellants Names and Address:



Appeal Decision:	Denied	Appeal Numbers:	2306295; 2306296
Decision Date:	08/16/2023	Hearing Date:	08/15/2023
Hearing Officer:	Patricia Mullen		

Appearances for Appellants:



Appearances for MassHealth:

Paula Viveiros, Taunton MEC; Raybryana
Dasher, Taunton MEC (observing)



*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:	Financial eligibility
Decision Date:	08/16/2023	Hearing Date:	08/15/2023
MassHealth's Reps.:	Paula Viveiros, Taunton MEC; Raybryana Dasher, Taunton MEC (observing)	Appellants' Reps.:	Pro se
Hearing Location:	Taunton 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 notices dated July 19, 2023, MassHealth terminated the appellant husband and wife's MassHealth Standard benefits, because MassHealth determined that the appellants' income and assets exceed the limit for MassHealth Standard for persons age 65 and older. (see 130 CMR 520.003; 519.005 and Exhibit 1). The appellants filed these appeals in a timely manner on July 26, 2023 and the appeals were consolidated for hearing. (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 appellants' MassHealth Standard benefits.

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Issue

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

Summary of Evidence

The appellants are husband and wife and appeared telephonically at the hearing. The appellants verified their identities. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center in Taunton. The MassHealth representative stated that both appellants are age 65 or older and live in a two person household. The MassHealth representative noted that appellant wife was open on MassHealth CarePlus in July, 2020 and remained open on CarePlus during the Covid Public Health Emergency (PHE), during which time MassHealth was not reviewing cases nor terminating MassHealth benefits. The MassHealth representative stated that the appellant wife turned 65 during the PHE and was aged out of CarePlus, however MassHealth opened her on a MassHealth Standard case for the remainder of the PHE period due to the prohibition of termination of benefits during the PHE. (Exhibit 4). The MassHealth representative stated that the appellant husband was open on MassHealth Standard as a disabled person under age 65 beginning on July 3, 2020. (Exhibit 4). The MassHealth representative stated that upon the termination of the PHE period, the appellants' cases were reviewed. MassHealth received the appellants' reviews on July 10, 2023 and processed the reviews on July 19, 2023. (Testimony). The MassHealth representative stated that the appellant wife receives gross Social Security of \$1,048.00 a month and appellant husband receives gross Social Security of \$2,030.00 a month, for total monthly income of \$3,078.00. (Exhibit 1). The MassHealth representative noted that the appellant wife had gross monthly earnings of \$568.00, but such amount was not counted in the July 19, 2023 notices because the appellant wife receives earned income only during the school year.

Pursuant to the notices dated July 19, 2023, MassHealth deducted the regulatory allowance of \$20.00 from the unearned income to determine MassHealth countable income. Accordingly, the appellants' countable income was \$3,058.00. (Exhibit 1). 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 \$1,644.00 a month for a household of two. The MassHealth representative stated that because the appellants' income exceeds 100% of the federal poverty level, they were not income eligible for MassHealth Standard. The July 19, 2023 notices set forth the 6 month deductible calculations of \$15,927.00, which would need to be met, after asset reduction to \$3,000.00, before eligibility for MassHealth Standard could be established. (Exhibit 1).

The MassHealth representative noted that appellants' countable assets totaled \$7,661.01 and the

asset limit for MassHealth Standard for a household of two is \$3,000.00, thus the appellants' assets exceed the MassHealth limit by \$4,661.00. (Exhibit 1).

The MassHealth representative stated that the appellants called MassHealth and submitted an application for the Medicare Savings Plan (MSP)/Buy In program, for which they were approved by notice dated August 2, 2023. (Exhibit 7). The MassHealth representative stated that her manager spoke with the appellants by phone on August 7, 2023 and learned that the appellant husband is receiving Workers Compensation income. The MassHealth representative noted that the Workers Compensation income was not reported on the review. The MassHealth representative stated that the appellant husband receives \$734.00 a week, or \$3,180.00 a month, in Workers Compensation income. The MassHealth representative stated that after adding the appellant husband's Workers Compensation income to the Social Security income, the couple's total income is \$6,258.00 a month. The MassHealth representative stated that income limit for MSP/Buy In is \$3,718.00 a month for a household of two. The appellants' MSP/Buy In benefits were terminated by notice dated August 7, 2023. (Exhibit 8). The Hearing Officer questioned if the appellant husband might be eligible for a Home and Community Based Services waiver (known as the Frail Elder Waiver). The MassHealth representative testified that the income limit for the waiver is 300% of the Federal Benefit Rate, or \$2,742.00 a month, and the appellant husband's monthly income of \$5,210.00 (\$3,180 + \$2,030) exceeds this amount.

The appellant wife testified that she only works during the school year and does not get paid when she does not work. The appellant wife noted that her only health insurance is Medicare, and dental coverage that she gets through work. The appellant husband stated that he has been receiving Workers Compensation income for a couple of years but did not think it was countable and therefore did not list it on the review form.

The appellant wife stated that the process has been very frustrating because every time they called MassHealth, they were told something different. The appellant wife stated that the couple missed out on savings they could have had during the open enrollment period for a Medicare supplemental plan and are now being quoted \$400.00 a month for a Medicare gap plan, with the earliest start date being September 1, 2023. The appellant wife stated that the couple would like their MassHealth Standard reinstated and kept open until September, 2023.

Findings of Fact

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

1. The appellants are age 65 or older and live in a two person household.
2. The appellant wife was open on MassHealth CarePlus in July, 2020 and remained open on CarePlus during the PHE period, until she turned 65.

3. After the appellant wife turned 65, MassHealth opened her on a MassHealth Standard case until the end of the PHE period.
4. The appellant husband was open on MassHealth Standard as a disabled person under age 65 beginning on July 3, 2020.
5. Upon the termination of the PHE period, the appellants' cases were reviewed.
6. MassHealth received the appellants' reviews on July 10, 2023 and processed the reviews on July 19, 2023.
7. The appellant wife receives gross Social Security of \$1,048.00 a month, and appellant husband receives gross Social Security of \$2,030.00 a month and Workers Compensation income of \$3,180.00 a month, for total household monthly income of \$6,258.00.
8. The appellant wife has earned income during the school year.
9. 100% of the federal poverty level is \$1,644.00 a month for a household of two.
10. The appellants' countable assets total \$7,661.01.
11. The appellants were approved for the MSP/Buy In program by notice dated August 2, 2023.
12. The appellants' MSP/Buy In benefits were terminated by notice dated August 7, 2023.

Analysis and Conclusions of Law

Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable-income amount, as defined in 130 CMR 520.009: Countable-Income Amount, of the individual or couple is less than or equal to 100% of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR

520.004: Asset Reduction, meeting a deductible as described at 130 CMR 520.028: Eligibility for a Deductible through 520.035: Conclusion of the Deductible Process, or both.

(130 CMR 519.005(A), (B)).

Countable-income Amount

(A) Overview.

(1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.

(2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.

(3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.

(4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

(130 CMR 520.009(A)(1)-(4)).

In addition to business expenses described at 130 CMR 520.010, the MassHealth agency allows the deductions listed below from the total gross unearned income. These deductions do not apply to the income of a community spouse described at 130 CMR 520.026(B). The deductions allowed from the total gross unearned income are the following:

(A) a deduction of \$20 per individual or married couple; ...

(130 CMR 520.013(A)).

Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. Unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth

Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: MassHealth Buy-In, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;
- (3) for rental income: a written statement from the tenant or a copy of the lease; or
- (4) other reliable evidence.

(130 CMR 520.009(D)).

The income limit for MassHealth Standard for persons age 65 and older is 100% of the federal poverty level, or \$1,644.00 a month for a household of two. The appellants have countable monthly income totaling \$6,238.00 (\$6,258.00 - \$20.00 regulatory deduction). For persons age 65 and older, Workers Compensation is considered unearned income and countable for determining MassHealth eligibility. (130 CMR 520.009(D)). The asset limit for MassHealth Standard for persons age 65 and older is \$3,000.00 for a two person household. The appellants have countable assets totaling \$7,661.00, which exceeds the MassHealth limit of \$3,000.00 by \$4,661.00. A six month deductible would not be considered until the assets are reduced to the MassHealth limit. If the assets are reduced to \$3,000.00, the couple would have a six month deductible of \$15,927.00 to be met every 6 months before eligibility for MassHealth could be established. (Exhibit 1; 130 CMR 520.028, 520.029, 520.030). The appellants are not financially eligible for MassHealth Standard. MassHealth's determination is upheld and the appeal is denied.

The appellants were terminated from MSP/Buy In by notice dated August 7, 2023 and still have time to appeal such notice if they so choose. It is noted that the income limit for MSP/Buy In for Qualifying Individuals is 225% of the federal poverty level, which is \$3,698.00 for a household of two. Since MassHealth deducts \$20.00 from unearned income in determining countable income, a couple could have no more than \$3,718.00 in gross monthly unearned income in order to be eligible for MSP/Buy In for Qualifying Individuals. (see 130 CMR 519.011(B)).

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: Justine Ferreira, Taunton MassHealth Enrollment Center