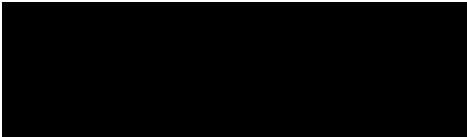


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|-----------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2306446 |
| Decision Date: | 09/29/2023 | Hearing Date: | 09/19/2023 |
| Hearing Officer: | Patricia Mullen | | |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Mul Oeur, Taunton 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 | Issue: | Financial eligibility |
| Decision Date: | 09/29/2023 | Hearing Date: | 09/19/2023 |
| MassHealth's Rep.: | Mul Oeur, Taunton MEC | Appellant's Rep.: | 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 a notice dated July 20, 2023, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant submitted an incomplete application. (see 130 CMR 515.008(A) and Exhibit 1). The appellant filed this appeal in a timely manner on July 31, 2023. (see 130 CMR 610.015(B) and Exhibit 2). By notice dated August 2, 2023, the Board of Hearings (BOH) requested that the appellant submit a signed appeal request. (Exhibit 3). On August 14, 2023, the appellant submitted a signed request for appeal. (Exhibit 4). Through a notice dated September 15, 2023, MassHealth denied the appellant's application for MassHealth Standard benefits, because MassHealth determined that the appellant's income exceeds the limit for MassHealth Standard for people age 65 and older in the community. (130 CMR 519.005 and Exhibit 11). The September 15, 2023 denial notice was incorporated into this appeal. (Exhibit 11). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard.

Issue

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

Summary of Evidence

The appellant appeared telephonically at the hearing and verified his identity. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The appellant was open on MassHealth CarePlus, a MassHealth category for people under age 65, beginning July, 2018. (Exhibit 6). During the Covid 19 Public Health Emergency (PHE), the appellant turned 65 and was no longer eligible for CarePlus. (Exhibit 6, testimony). MassHealth was prohibited from reviewing cases or downgrading coverage during the PHE, so the appellant was protected on a MassHealth Standard case beginning in 2021. (Exhibit 6, testimony). The MassHealth representative stated that after the PHE ended on March 31, 2023, MassHealth sent the appellant a review to complete and return. The MassHealth representative stated that MassHealth received an incomplete review from the appellant on July 17, 2023 and his Standard benefits were terminated as of August 3, 2023 by notice dated July 20, 2023. (Exhibits 1, 8). The MassHealth representative stated that the appellant submitted a complete eligibility review on August 11, 2023 and MassHealth sent him a request for information on August 17, 2023. (Exhibits 7, 9, 10). The MassHealth representative stated that requested information was verified on September 15, 2023 and MassHealth processed the appellant's case on that date. (Exhibit 7).

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 receives gross monthly Social Security of \$1,412.00 and a gross monthly pension of \$938.20 for total monthly income of \$2,350.20. The MassHealth representative noted that MassHealth deducts \$20.00 from gross unearned income to determine countable income and thus the appellant's MassHealth countable income is \$2,330.20. The MassHealth representative stated that the income limit for MassHealth Standard for people age 65 and older is 100% of the federal poverty level, or \$1,215.00 a month for a one person household. The MassHealth representative stated that the appellant is not financially eligible for MassHealth because his countable monthly income exceeds \$1,215.00. The MassHealth representative noted that the asset limit for MassHealth Standard for people age 65 and older is \$2,000.00 and the appellant verified that his assets are under this limit.

The MassHealth representative stated that, for people age 65 and older with income in excess of 100% of the federal poverty level, MassHealth calculates a 6 month deductible which would need to be met before eligibility could be established. The MassHealth representative stated that the appellant was determined to be in need of personal care attendant (PCA) services and therefore a PCA disregard of \$1,094.00 was deducted when calculating the appellant's 6 month deductible.

MassHealth calculated a 6 month deductible of \$4,404.00 pursuant to MassHealth regulations. (Testimony, exhibit 11).

The MassHealth representative advised the appellant to contact the Bristol Elder Services agency and ask to be evaluated for a Home and Community Based Services waiver (also known as a Frail Elder waiver). The MassHealth representative stated that the appellant would also need to complete pages 25-28 of the MassHealth Senior application when applying for the waiver. The MassHealth representative stated that if the appellant is not approved for the Frail Elder waiver, he should ask Bristol Elder Services to assist him with submitting an application for a Medicare Savings Plan Buy-In program by which MassHealth would pay his monthly Medicare premium.

The appellant stated that his Social Security check had recently been reduced. The MassHealth representative noted that since the appellant's MassHealth Standard coverage ended, MassHealth was no longer paying his Medicare premium and Social Security was deducting it from his Social Security income. The MassHealth representative stated that MassHealth is required to count gross income pursuant to regulation. The appellant stated that he would contract his elder services agency about being evaluated for the Frail Elder waiver.

Findings of Fact

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

1. The appellant is age 65 or older and lives in a one person household.
2. The appellant was open on MassHealth CarePlus, a MassHealth category for people under age 65, beginning July, 2018.
3. During the Covid 19 PHE, the appellant turned 65 and was no longer eligible for CarePlus.
4. MassHealth was prohibited from reviewing cases or downgrading coverage during the PHE, and the appellant was protected on a MassHealth Standard case beginning in 2021.
5. After the PHE ended on March 31, 2023, MassHealth sent the appellant a review to complete and return.
6. MassHealth received an incomplete review from the appellant on July 17, 2023 and his Standard benefits were terminated as of August 3, 2023 by notice dated July 20, 2023.
7. The appellant submitted a complete eligibility review on August 11, 2023 and MassHealth sent him a request for information on August 17, 2023.

8. The appellant submitted the requested information on September 15, 2023 and MassHealth processed the appellant's case on that date.
9. The appellant receives gross monthly Social Security of \$1,412.00 and a gross monthly pension of \$938.20 for total monthly income of \$2,350.20.
10. 100% of the federal poverty level is \$1,215.00 a month for a one person household.
11. The appellant's assets are at or below the MassHealth limit of \$2,000.00.

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, and the countable assets of an individual are \$2,000 or less. (130 CMR 519.005). The appellant verified his assets are at or below \$2,000.00. 100% of the federal poverty level for a family of one is \$1,215.00 per month. The appellant's gross unearned income totals \$2,350.20 per month. After allowing the \$20.00 deduction for unearned income, the appellant's countable unearned income is \$2,330.20. 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 MassHealth eligibility can be established. (130 CMR 520.028). The appellant's countable income for the deductible calculation is \$1,256.00 because MassHealth deducted \$1,094.00 as a PCA disregard. 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 deductible income of \$1,256.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$734.00. This amount is multiplied by 6 to determine the 6 month deductible of \$4,404.00. (Exhibit 11, p. 3).

MassHealth's determination that the appellant is not financially eligible for MassHealth Standard is upheld and the appeal is denied. As noted above, the appellant should contact his elder services agency and be evaluated for the Frail Elder Waiver.

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