

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2306506
<b>Decision Date:</b>	09/12/2023	<b>Hearing Date:</b>	09/07/2023
<b>Hearing Officer:</b>	Patricia Mullen		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Josh Bailey, 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; Over 65
<b>Decision Date:</b>	09/12/2023	<b>Hearing Date:</b>	09/07/2023
<b>MassHealth's Rep.:</b>	Josh Bailey, Springfield MEC	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield 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 26, 2023, MassHealth informed the appellant that her MassHealth Standard coverage would end on August 9, 2023, because MassHealth determined that the appellant's income and assets exceed the limit for MassHealth Standard for persons age 65 and older. (see 130 CMR 519.005; 520.003; and Exhibit 1). The appellant filed this appeal in a timely manner on August 3, 2023. (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 informed the appellant that her MassHealth coverage would terminate on August 3, 2023.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005; 520.003, in determining that the appellant's income and assets exceed the limit for MassHealth Standard 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 (MEC) in Springfield. The MassHealth representative stated that the appellant is over age 65 and lives in a one person household. The appellant was open on MassHealth CarePlus, with most recent coverage beginning in July, 2018, and remained open on MassHealth CarePlus, without review, during the Covid 19 Public Health Emergency (PHE). (Exhibit 4). The appellant turned [REDACTED] and persons age 65 and older are not eligible for MassHealth CarePlus. (Testimony, exhibit 4). In July, 2021, because all MassHealth cases were still protected under the PHE regardless of actual eligibility, MassHealth converted the appellant to MassHealth Standard for the remainder of the PHE period. (Testimony). The appellant remained protected on MassHealth Standard until the PHE lifted on March 31, 2023. (Exhibit 4, testimony). The MassHealth representative stated that the appellant submitted a MassHealth renewal application on June 28, 2023. The MassHealth representative stated that the appellant verified assets totaling \$2,701.86. The asset limit for MassHealth Standard is \$2,000.00 for an individual, and thus the appellant's has excess assets in the amount of \$701.86. (Testimony). The MassHealth representative stated that the appellant would need to submit bank statements showing a balance of \$2,000.00 or less, in order to be asset eligible for MassHealth. The MassHealth representative stated further that the appellant receives gross Social Security income of \$1,628.00 a month and verified gross monthly earned income of \$1,265.00. It was learned at the hearing that the appellant is no longer working and her only income is her Social Security. The MassHealth representative stated that the earned income would be removed from the appellant's case. 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 \$1,608.00 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 stated that the appellant is eligible for MassHealth Buy-In, which is a program under which MassHealth pays the appellant's monthly Medicare premium. The MassHealth representative noted that after reducing the assets to \$2,000.00 or less, the appellant could establish eligibility for MassHealth Standard if she is able to meet a 6 month deductible, which is calculated based on income. The MassHealth representative explained the Frail Elder

Waiver program (also known as the Home and Community Based Services Waiver) and advised the appellant to contact her local elder services agency at [REDACTED] to inquire about being evaluated for the 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 clinically eligible for the waiver by a nurse from elder services. The MassHealth representative noted that there is also a MassHealth program for disabled, working adults, called CommonHealth. The MassHealth representative stated that if the appellant was determined by MassHealth to be disabled, and if she was able to work 40 hours a month, she'd be eligible for CommonHealth with a premium. The MassHealth representative stated that he would mail the appellant a disability supplement.

The appellant stated that she had to stop working after being injured in an automobile accident in May, 2023. (Exhibit 2, p. 1). The appellant testified that she is not receiving unemployment compensation or any short term disability income, only her Social Security income. The appellant stated that her bank statement showed excess assets because two checks had not cleared yet. The appellant stated that she would send an updated bank statement to MassHealth. The appellant noted further that she would call elder services and ask about a Frail Elder Waiver evaluation.

## **Findings of Fact**

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

1. The appellant is over age 65 and lives in a one person household.
2. The appellant was open on MassHealth CarePlus, with most recent coverage beginning in July, 2018, and remained open on MassHealth CarePlus, without review, during the Covid 19 Public Health Emergency.
3. The appellant turned [REDACTED] and persons age 65 and older are not eligible for MassHealth CarePlus.
4. In July, 2021, MassHealth converted the appellant to MassHealth Standard for the remainder of the PHE period; the appellant remained protected on MassHealth Standard until the PHE lifted on March 31, 2023.
5. The appellant submitted a MassHealth renewal application on June 28, 2023.
6. The appellant verified assets totaling \$2,701.86.
7. The appellant receives gross Social Security income of \$1,628.00 a month.

8. 100% of the federal poverty level is \$1,215.00 a month for a family of one.

## **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 assets in excess of \$2,000.00. The appellant is going to submit an updated bank statement to MassHealth to show that the assets are \$2,000.00 or less. 100% of the federal poverty level for a family of one is \$1,215.00 per month. The appellant's gross unearned income totals \$1,628.00 per month. After allowing the \$20.00 deduction for unearned income, the appellant's countable unearned income is \$1,608.00. 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, and, under this program, MassHealth pays her monthly Medicare premium.

The appellant would need to verify assets at or below \$2,000.00, and 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 \$1,608.00. 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 \$1,608.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$1,086.00. This amount is multiplied by 6 to determine the 6 month deductible of \$6,516.00. (Exhibit 1, p. 2).

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 her 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.

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Patricia Mullen  
Hearing Officer  
Board of Hearings

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