

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2306768
<b>Decision Date:</b>	09/18/2023	<b>Hearing Date:</b>	09/13/2023
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**

Pro se

**Appearance for MassHealth:**

Robert Hine



*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 Community
<b>Decision Date:</b>	09/18/2023	<b>Hearing Date:</b>	09/13/2023
<b>MassHealth’s Rep.:</b>	Robert Hine	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield		

## 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 6, 2023, MassHealth informed Appellant that he does not qualify for MassHealth benefits upon determining that Appellant did not give MassHealth the information it needs to determine his eligibility (Exhibit A).<sup>1</sup> Appellant filed for an appeal with the Board of Hearings in a timely manner on August 9, 2023 (See 130 CMR 610.015(B) and Exhibit A). Eligibility determinations constitute adequate grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth determined that Appellant does not qualify for MassHealth benefits upon determining that his gross countable household income exceeds eligibility limits.

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<sup>1</sup> Prior to hearing, Appellant filed the necessary information and MassHealth was able to make an eligibility determination denying him for MassHealth benefits due to excess income.

## **Issue**

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it determined that Appellant does not qualify for MassHealth benefits upon determining that his gross countable household income exceeds eligibility limits.

## **Summary of Evidence**

Both parties appeared by telephone.

The MassHealth representative testified that the subject notice concerning the determination that Appellant was not eligible for MassHealth benefits because he had not filed all of the requested information needed by MassHealth to reach an eligibility determination. Prior to hearing, Appellant filed all the necessary information and MassHealth was able to determine that due to Appellant's income, he is not currently eligible for MassHealth Standard but is eligible for partial Health Safety Net (HSN). The MassHealth representative also said that Appellant would be eligible for the Senior Buy-In benefit if he filed an application. Senior Buy IN would cover the cost of Appellant's Medicare premium(s).

The MassHealth representative further testified that Appellant is over the age of 65 and resides in the community in a household of one. Appellant receives monthly gross Social Security of \$2,294.00 which represents 187% of the federal poverty level for household of one. The MassHealth representative testified that the eligibility limit is \$1,215.00 per month which represents 100% of the federal poverty level for household one.

Appellant did not dispute MassHealth income figures, his age or his household size. Appellant did discuss various standard deductions taken from his monthly SSA benefits (taxes, Medicare premiums). Appellant also testified about his current diagnoses including pancreatic cancer and his treatment schedule. Appellant discussed various other financial stresses in his life including car expenses and medical bills.

## **Findings of Fact**

By a preponderance of the evidence, this record supports the following salient findings:

1. Appellant is over the age of 65.
2. Appellant resides in the community in a household of one.
3. Appellant has verified gross social security income of \$2,294.00 per month.

## **Analysis and Conclusions of Law**

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

Pursuant to MassHealth regulation 130 CMR 519.005(A)(1), in order for an individual over the age of 65 residing in the community to be income eligible for MassHealth Standard, countable income cannot exceed 100% of the FPL for the individual's household size.

Pursuant to MassHealth regulations, an individual's gross earned and/or unearned income is counted for MassHealth eligibility purposes (520.009(A)(1)). While certain deductions are allowed for specified situations, such as business deductions, deductions for expenses noted by Appellant (Medicare premiums, taxes, medical bills, transportation costs) are not among them (130 CMR 520.009).

Appellant did not dispute his age, gross SSA income, or his household size. MassHealth has shown Appellant's countable income to exceed the applicable eligibility income limit. Accordingly, there is no reasonable basis to conclude that MassHealth has made an error of fact or law.

For the foregoing reason, the appeal is denied.

## **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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186