

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307255
Decision Date:	11/13/2023	Hearing Date:	09/26/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Shauna Post, Springfield MEC
Lindsey Marek, Supervisor, Observing

Interpreter:



*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:	Over Assets; Senior By In; Over 65
Decision Date:	11/13/2023	Hearing Date:	09/26/2023
MassHealth's Rep.:	Shauna Post	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	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 August 9, 2023, MassHealth denied the appellant's application for MassHealth benefits for Senior Buy In because MassHealth determined that the appellant had more countable assets than MassHealth benefits allow. (130 CMR 520.003 and 130 CMR 520.004; Ex. 1). The Appellant filed this appeal in a timely manner on August 12, 2023. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal before the Board of Hearings. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant benefits under Senior Buy In because she was over assets.

Issue

The appeal issue is whether MassHealth was correct in denying appellant benefits because she was over assets.

Summary of Evidence

Appellant and the MassHealth representative appeared by telephone and were sworn. The MassHealth representative testified that appellant was on Senior Buy In from 2021 until August 23, 2023 when it ended because appellant was found to be over assets. The MassHealth representative stated appellant has a life insurance policy that is causing her to be over assets for eligibility for Senior Buy In. She stated appellant currently has Health Safety Net because that is the only benefit available to appellant based on her assets.

Appellant testified that she is unwilling to cash in her life insurance policy because the money is for her children. She stated she understood the policy is making her over assets and keeping her from obtaining better health benefits through MassHealth. She stated she now has Medicare and United Health Care.

Findings of Fact

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

1. Appellant is a female in her [REDACTED] who had coverage through Senior Buy In that was ended by MassHealth for being over assets. (Testimony; Ex. 1).
2. Appellant's life insurance policy is the offending instrument causing her to be over assets. (Testimony).
3. Appellant understands she is over assets and knows her life insurance policy is the reason she is over assets. (Testimony; Ex. 4).
4. Appellant is not willing to cash in her life insurance policy. (Testimony; Ex. 4).
5. Appellant has Medicare and United Health Care. (Testimony).

Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

505.007: MassHealth Senior Buy-In and Buy-In

(A) MassHealth Senior Buy-In and Buy-In coverage are available to Medicare beneficiaries who are not eligible for MassHealth Standard, in accordance with 130 CMR 519.010: MassHealth Senior Buy-In and 519.011: MassHealth Buy-In.

MassHealth Standard members receive this benefit under 130 CMR 505.002(O). MassHealth CommonHealth members receive this benefit in accordance with 130 CMR 505.004(L).

(B) Income and assets for benefits provided under 130 CMR 519.010: MassHealth Senior Buy-In and 519.011: MassHealth Buy-In are determined in accordance with 130 CMR 520.000: Health Care Reform: MassHealth: Financial Eligibility.

519.010: MassHealth Senior Buy-in (Qualified Medicare Beneficiaries/QMB)

(A) Eligibility Requirements. (Qualified Medicare Beneficiaries/QMB) coverage is available to Medicare beneficiaries who

- (1) are entitled to hospital benefits under Medicare Part A;
- (2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 130% of the federal poverty level;
- (3) have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year the allowable asset limits shall be made available on MassHealth's website; and
- (4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000: Health Care Reform: MassHealth: Universal Eligibility Requirements or 130 CMR 517.000: MassHealth: Universal Eligibility Requirements, as applicable.

520.003: Asset Limit

...

(B) The total value of countable assets owned by or available to individuals applying for or receiving 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), both as described in 130 CMR 519.011: MassHealth Buy-in, may not exceed the amount equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

520.007: Countable Assets

Countable assets are all assets that must be included in the determination of

eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets 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 assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. The applicant or member and the spouse must verify the total value of countable assets. However, if he or she is applying solely for MassHealth Senior Buy-in for Qualified Medicare Beneficiaries (QMB) as described in 130CMR519.010: 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) both as described in 130 CMR 519.011: MassHealth Buy-in, verification is required only upon request by the MassHealth agency. 130 CMR 520.007 also contains the verification requirements for certain assets. The assets that the MassHealth agency considers include, but are not limited to, the following

...

(E) Cash-surrender Value of Life-insurance Policies.

(1) The cash-surrender value of a life-insurance policy is the amount of money, if any, that the issuing company has agreed to pay the owner of the policy upon its cancellation. An individual may adjust the cash-surrender value of life insurance to meet the asset limit. The MassHealth agency will consider the cash-surrender-value amount an inaccessible asset during the adjustment period.

(2) If the total face value of all countable life-insurance policies owned by the applicant, member, or spouse exceeds \$1,500, the total cash-surrender value of all policies held by that individual is countable. The MassHealth agency does not count the face value of burial insurance and the face value of life-insurance policies not having cash-surrender value (for instance, term insurance) in determining the total face value of life-insurance policies. Burial insurance is insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses, funeral expenses, or both of the insured.

Appellant had MassHealth Senior Buy In from 2021 until August 23, 2023 when it was determined that she was over assets. The MassHealth representative testified the asset limit for an individual for Senior Buy In is \$18,180.00. (Testimony; Eligibility Figures for Community Residents Age 65 or Older, 2023 at Mass.gov/financial-guidelines-for-certain-masshealth-applicants-members). Appellant has a life insurance policy valued at \$33,724.60. (Testimony; Ex. 1, p. 3; Ex. 4). Appellant does not dispute the value of her life insurance policy. Pursuant to the regulations, appellant is over assets to qualify for Senior Buy In. 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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:

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