

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied | Appeal Number: | 2307294 |
| Decision Date: | 09/26/2023 | Hearing Date: | 09/12/2023 |
| Hearing Officer: | Patricia Mullen | | |

Appearances for Appellant:



Appearance for MassHealth:

Dianne Braley, 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

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|---------------------------|---|---------------------------|----------------------------|
| Appeal Decision: | Denied | Issue: | Start date |
| Decision Date: | 09/26/2023 | Hearing Date: | 09/12/2023 |
| MassHealth's Rep.: | Dianne Braley, Taunton MEC | Appellant's Reps.: | Pro se; SHINE counselor |
| 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 August 1, 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 persons age 65 and older. (see 130 CMR 519.005 and Exhibit 1). Through a notice dated August 2, 2023, MassHealth approved the appellant for MassHealth's Buy-In program with a start date of August 1, 2023. (130 CMR 520.011 and Exhibit 2). Through a notice dated August 17, 2023, MassHealth approved the appellant for MassHealth Senior Buy-In with a start date of September 1, 2023. (130 CMR 519.010 and Exhibit 8). The appellant filed this appeal in a timely manner on August 21, 2023, arguing that she was not told she would be eligible for Senior Buy-In. (see 130 CMR 610.015(B) and Exhibit 3). Denial of assistance for a period of time is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard, and approved the appellant for MassHealth Buy-In with a start date of August 1, 2023 and for Senior Buy-In with a start date of September 1, 2023.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, in determining that the appellant is not eligible for MassHealth Standard; a second issue is whether MassHealth correctly determined the start dates for the MassHealth Buy-In coverage pursuant to 130 CMR 519.010, 519.011.

Summary of Evidence

The appellant testified telephonically at the hearing and verified her identity. The appellant's SHINE counselor appeared telephonically at the request of the appellant. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The MassHealth representative stated that the appellant is over age 65 and lives in a one person household. The appellant was open on MassHealth Standard for disabled persons under age 65 from December 9, 2014 to August 2, 2023. (Testimony, exhibit 5). The MassHealth representative testified that although the appellant turned [REDACTED] in [REDACTED] her MassHealth Standard case remained open because MassHealth was prohibited from reviewing eligibility or downgrading coverage during the Covid 19 Public Health Emergency (PHE). The appellant remained protected on MassHealth Standard until the PHE ended on March 31, 2023. (Testimony, exhibit 5). The MassHealth representative stated that the appellant submitted a MassHealth Senior application, or SACA, for persons age 65 and older, on June 20, 2023. MassHealth sent the appellant a request for information on June 23, 2023 and the appellant submitted asset information on July 26, 2023. (Testimony). The MassHealth representative stated that MassHealth processed the appellant's case on August 1, 2023 and determined that her assets are under the MassHealth limit of \$2,000.00, but her income exceeds the MassHealth limit of 100% of the federal poverty level. The MassHealth representative stated that the appellant's gross Social Security income is \$1,889.00 a month. MassHealth deducts \$20.00 from unearned income to determine countable income and thus the appellant's MassHealth countable income is \$1,869.00 a month. (Testimony). 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 household of one. The MassHealth representative stated that by notice dated August 1, 2023, the appellant's protected MassHealth Standard was terminated, and, by notice dated August 2, 2023, the appellant was approved for MassHealth Buy-In whereby MassHealth covers the appellant's monthly Medicare premiums. (Exhibits 1, 2).

The MassHealth representative stated that if the appellant needs services in her home, she could apply for a Home and Community Based Services waiver (also known as the Frail Elder Waiver) through her local elder services agency. The income limited for MassHealth Standard through the Frail Elder Waiver is 300% of the federal benefit rate. (Testimony). The MassHealth representative noted that if the appellant was able to work a minimum of 10 hours a week, she would be eligible for MassHealth CommonHealth for disabled working adults age 65 and older,

with a premium based on income.

The MassHealth representative stated that the appellant called MassHealth on August 17, 2023 and applied for the Medicare Savings Plan (MSP) Senior Buy-In program. The MassHealth representative stated that MassHealth used the appellant's SACA already in the system to determine eligibility for MSP Senior Buy-In and determined that the appellant was eligible for such program because her income was under 190% of the federal poverty level. By notice dated August 17, 2023, MassHealth approved the appellant for MSP Senior Buy-In with a start date of September 1, 2023. (Exhibit 8). The MassHealth representative stated that, pursuant to MassHealth regulations, the start date for MassHealth Senior Buy-In is the first day of the month following the MassHealth determination date.

The appellant confirmed the income as reported by MassHealth. The appellant's SHINE counselor stated that the appellant called MassHealth in August to ask why she was not eligible for MSP Senior Buy-In and she was told she needed to submit a separate application for that program. The appellant's representative argued that the appellant should have been eligible for MassHealth Senior Buy-In beginning August 1, 2023. The appellant stated that she had surgery in August, 2023 and now has copayments related to that. The appellant stated that she has homemaker services and is looking into the Frail Elder Waiver.

The MassHealth representative stated that a separate application was not needed for the Senior Buy-In program and the worker who took the appellant's call on August 17, 2023, processed the request using the information in the appellant's SACA in the system. The MassHealth representative stated that Senior Buy-In cannot start any earlier than the first day of the month following MassHealth's determination, pursuant to MassHealth regulations, so the earliest possible date for the appellant's MassHealth Senior Buy-In is September 1, 2023.

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 Standard for disabled persons under age 65 from December 9, 2014 to August 2, 2023.
3. The appellant turned [REDACTED] in [REDACTED] but her MassHealth Standard case remained open because MassHealth was prohibited from reviewing eligibility or downgrading coverage during the Covid 19 PHE; the appellant remained protected on MassHealth Standard until the PHE ended on March 31, 2023.

4. The appellant submitted a SACA on June 20, 2023; MassHealth sent the appellant a request for information on June 23, 2023 and the appellant submitted asset information on July 26, 2023.
5. The appellant receives gross Social Security income of \$1,889.00 a month.
6. 100% of the federal poverty level is \$1,215.00 a month for a household of one.
7. By notice dated August 1, 2023, MassHealth terminated the appellant's MassHealth Standard coverage.
8. By notice dated August 2, 2023, MassHealth approved the appellant for MassHealth Buy-In.
9. The appellant called MassHealth on August 17, 2023 and applied for the MSP Senior Buy-In program over the phone.
10. By notice dated August 17, 2023, MassHealth approved the appellant for MSP Senior Buy-In with a start date of September 1, 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)¹, 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)).

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

¹ 130 CMR 519.005(C) pertains to parents/caretaker relatives of children under age 19 and is not applicable here.

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)).

MassHealth Senior Buy-In (for Qualified Medicare Beneficiaries (QMB))

(A) Eligibility Requirements. (Qualified Medicare Beneficiary (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 517.000 : MassHealth Universal Eligibility Requirements, as applicable.

(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B for members who establish eligibility for MassHealth Senior Buy-In coverage in accordance with 130 CMR 519.010(A).

(C) Begin Date. The begin date for MassHealth Senior Buy-In coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

(130 CMR 519.010).

MassHealth Buy-In

(A) MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB).

- (1) Eligibility Requirements. MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) coverage is available to Medicare beneficiaries who meet the eligibility requirements of MassHealth Senior Buy-In coverage at 130 CMR 519.010: MassHealth Senior Buy-In (Qualified Medicare Beneficiaries (QMB)) with the following exception: the countable income amount of the individual and his or her spouse must be greater than 130% of the federal poverty level and less than or equal to 150% of the federal poverty level.
- (2) Benefits. The MassHealth agency pays the cost of the monthly Medicare Part B premium for members who establish eligibility for MassHealth Buy-In for SLMB coverage in accordance with 130 CMR 519.011(A).

(3) Begin Date. MassHealth Buy-In for SLMB coverage, in accordance with 130 CMR 519.011(A), begins with the month of application and may be retroactive up to three calendar months before the month of application.

(130 CMR 519.011(A)).

MassHealth Eligibility Operations Memo (EOM) 23-04 dated February, 2023, amended the MassHealth MSP/Buy In regulations. The EOM states that effective January 1, 2023, MSP income and asset limits for each coverage type are as follows.

- The countable income limit for the QMB program is at or below 190% of the federal poverty level (FPL).
- The countable income limit for the SLMB program is greater than 190% and less than or equal to 210% of the FPL.
- The countable income limit for the QI program is greater than 210% and less than or equal to 225% of the FPL.
- 2023 Asset Limits
Individual — \$18,180; Married couple — \$27,260

(MassHealth EOM 23-04, February, 2023).

Time Standards for Eligibility Determination

(A) For applicants who do not apply on the basis of a disability, a determination of eligibility must be made within 45 days from the date of receipt of the completed application. All requested information must be received within 30 days of the date of request.

(130 CMR 516.005(A)).

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 that her 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 \$1,889.00 per month. After allowing the \$20.00 MassHealth deduction for unearned income, the appellant's countable unearned income is \$1,869.00. This amount exceeds 100% of the federal poverty level for a family of one. The appellant is not financially eligible for MassHealth Standard.

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 \$1,869.00. 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 \$1,869.00, as calculated above, exceeds the MassHealth income standard of \$522.00 by \$1,347.00. This amount is multiplied by 6 to determine the 6 month deductible of \$8,082.00.

The appellant's protected MassHealth Standard benefits ended on August 2, 2023 and she had MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) from August 1, 2023 through August 31, 2023. The appellant was determined eligible for MassHealth Senior Buy-In with a start date of September 1, 2023. The appellant argues that her MassHealth Senior Buy-In should have started on August 1, 2023. The appellant still had full Standard coverage with Buy-In through August 2, 2023, so presumably the appellant wanted her Senior Buy-In to begin on August 3, 2023, after her Standard coverage ended. MassHealth had a complete application from the appellant once she verified assets on July 26, 2023. MassHealth has 45 days to make an eligibility determination. MassHealth determined the appellant was eligible for MassHealth Senior Buy-in on August 17, 2023, which is less than 45 days from the completed application date of July 26, 2023, and is also less than 45 days from the application date of June 20, 2023. Pursuant to 130 CMR 510.010(C), the begin date for MassHealth Senior Buy-In coverage is the first day of the calendar month following the date of the MassHealth eligibility determination. MassHealth made a timely eligibility determination for MassHealth MSP Senior Buy-in on August 17, 2023, and thus the begin date for the appellant's MassHealth Senior Buy-In could be no earlier than September 1, 2023 pursuant to regulation. MassHealth's actions in this case are upheld and 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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center