

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307527
Decision Date:	10/6/2023	Hearing Date:	09/12/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

Via telephone

Pro se; [Redacted] Friend

Appearance for MassHealth:

Via telephone

John Gerardi



*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:	Eligibility; Over 65
Decision Date:	10/06/2023	Hearing Date:	09/12/2023
MassHealth's Rep.:	John Gerardi	Appellant's Rep.:	<i>Pro se;</i> [REDACTED] [REDACTED]
Hearing Location:	Tewksbury MassHealth Enrollment Center Room 1 (Remote)	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 22, 2023, MassHealth informed the Appellant that she was not eligible for MassHealth benefits because MassHealth determined that the Appellant's income and assets both exceed the limit for MassHealth benefits for persons aged 65 and older. (130 CMR 520.002; 520.003; 520.004; 520.028; Exhibit 1). The Appellant filed this appeal in a timely manner on August 28, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth benefits due to being over the income and asset limits.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is not eligible for MassHealth benefits because she is over the income and asset limits.

Summary of Evidence

A MassHealth representative appeared at the hearing by telephone and testified as follows: MassHealth received the Appellant's renewal application and requested additional information pertaining to assets and income. Based on the information that MassHealth received, the Appellant's assets and income exceed MassHealth limits.¹ Upon inquiry made at the hearing, the MassHealth representative explained that the Appellant was previously on Health Safety Net based on income and assets. The Appellant still receives Health Safety Net coverage.

The Appellant appeared at the hearing by telephone and testified that her life insurance policy is not an asset, it is simply an insurance policy. She further testified that she does not understand why MassHealth considers a life insurance policy to be an asset. In response, the MassHealth representative explained that her life insurance policy includes a cash surrender value. Here, the Appellant's cash surrender value of her policy exceeds \$ 2,000.00. (Exhibit 1, p. 3). The Appellant testified that it was her understanding that if she were to withdraw the cash surrender value it would be considered a loan, not an asset. The MassHealth representative explained that the cash surrender value is deemed an asset because if the Appellant were to cancel the policy, the excess amount would be available to her. The Appellant testified that she feels that she is being penalized for having a life insurance policy and does not feel that MassHealth should count such as an asset.

The MassHealth representative further explained that to qualify for MassHealth benefits, the amount in assets cannot exceed \$ 2,000.00. Here, the Appellant's life insurance policy (cash surrender value) exceeds the asset limit. He testified that for life insurance policies, MassHealth must consider whether it is a countable or a non-countable asset. For non-countable assets, MassHealth considers term policies as a non-countable asset due to a lack of a cash surrender value. As for life insurance policies that have a face value of \$ 1500.00 or more, MassHealth must consider what the cash surrender value is because that is considered as a countable asset. Further, even if the Appellant were to reduce her assets below the \$ 2000.00 limit², the MassHealth representative testified that the Appellant is still over the income limit to qualify for MassHealth benefits. The MassHealth representative stated that the Appellant has Health Safety Net coverage, which is the same coverage she had over the last few years based upon her assets and income. With respect to the Appellant's income, the MassHealth representative testified that to qualify for

¹ The MassHealth representative explained that the Appellant's current income is at 241.00 % of the Federal Poverty Level.

² The MassHealth representative testified that to reduce the Appellant's assets, the Appellant has the option to irrevocably assign her life insurance policy to a funeral home, with a supporting funeral home contract signed by the funeral home director and the Appellant, along with a list of goods and services.

MassHealth benefits, income must be at 100% of the Federal Poverty Level, which, in this case, is \$ 1,215.00. The Appellant's gross monthly income currently exceeds this amount by 241.00 percent. The Appellant testified that she feels like she is being penalized for her income. She explained that she is not able to attend her doctor's appointments due to lack of transportation. Further, the Appellant has other expenses, such as rent and food.

The MassHealth representative suggested that the Appellant consider a supplemental policy, however, he is not aware of what policies include transportation. With respect to the Appellant's expenses, he explained that MassHealth regulations do not take other expenses into account, unfortunately. However, the MassHealth representative further suggested that the Appellant contact local elder service agencies that may be able to assist her with transportation, fuel, and housing costs. As to food, the MassHealth representative suggested that the Appellant contact the Department of Transitional Assistance.

Findings of Fact

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

1. The Appellant is over the age of 65 and resides in a one-person household. (Exhibit 3).
2. On August 22, 2023, MassHealth notified the Appellant that she does not qualify for MassHealth benefits because she is over the asset and income guidelines. (Testimony; Exhibit 1).
3. The Appellant timely appealed on August 28, 2023. (Exhibit 2).
4. The Appellant's assets exceed the \$ 2000 limit. (Testimony; Exhibit 1, p. 3).
5. The Appellant's income exceeds 100% of the Federal Poverty Level. (Testimony).

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.

With respect to income, 100% of the Federal Poverty Level for a family of one is \$1,215.00 per

month. The Appellant's gross unearned income totals \$ 2,957.82.00 per month. After allowing the \$20.00 deduction for unearned income, the Appellant's countable unearned income is \$2,937.00. This amount exceeds 100% of the Federal Poverty Level for a family of one. The Appellant is not currently financially eligible for MassHealth Standard. The Appellant is eligible for Health Safety Net.

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 \$2,250.10. 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 \$ 2,250.10, as calculated above, exceeds the MassHealth income limit of \$522.00. (Exhibit 1, p. 3).

MassHealth's determination that the Appellant is not financially eligible for MassHealth benefits is upheld and this appeal is denied. As noted above, the Appellant should contact her elder services agency.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290