

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2307726
<b>Decision Date:</b>	11/30/2023	<b>Hearing Date:</b>	10/16/2023
<b>Hearing Officer:</b>	Casey Groff, Esq.		

**Appearance for Appellant:**  
*Pro se*

**Appearance for MassHealth:**  
Nivdarla Anselme, Charlestown 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>	Eligibility; Over 65; Community: Income
<b>Decision Date:</b>	11/30/2023	<b>Hearing Date:</b>	10/16/2023
<b>MassHealth's Rep.:</b>	Nivdarla Anselme	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (Remote)	<b>Aid Pending:</b>	Yes

### 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 8/23/23, MassHealth informed Appellant that it was changing his coverage type from MassHealth Standard to Buy-In (QI-Part B) due to having income that exceeded program limits. See Exh. 1; 130 CMR 519.002. Appellant filed this appeal in a timely manner on August 30, 2023; however, he did not sign the fair hearing request. See Exh. 2 130 CMR 610.015(B). On August 31, 2023, the Board of Hearings (BOH) dismissed the appeal for failing to demonstrate authority to appeal the agency action. See Exh. 3. On 9/11/23, Appellant sent BOH the fair hearing request with his signature thereby demonstrating authority to appeal the eligibility determination. See Exh. 4. On 9/13/23, BOH vacated the dismissal and scheduled a hearing to take place on 10/16/23. See Exh. 5. Denial or change in the level of assistance is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth determined that Appellant was not eligible for MassHealth Standard because his countable household income exceeded program eligibility limits, and therefore changed his coverage type to Buy-In effective 9/6/23.

### Issue

The appeal issue is whether MassHealth was correct in determining Appellant's income exceeded the regulatory limit for MassHealth Standard, and as a result, changed his coverage to Buy-In.

## Summary of Evidence

A MassHealth eligibility representative appeared at hearing and testified as follows: Appellant is over the age of 65 and lives with his wife in the community in a household size of two (2). In 2020, Appellant was enrolled in a MassHealth Standard benefit for individuals under the age of 65. His benefit remained protected during the pendency of the federally mandated Covid-19 Public Health Emergency (PHE). When the PHE lifted in April of 2023, Appellant was no longer eligible for his existing benefit because he was over the age of 65. In May of 2023, Appellant sent MassHealth a senior benefit application. Following the application, Appellant provided verification of his and his wife's current income information. Based on the information and documents received through the application process, MassHealth determined that Appellant and his wife had a total household gross income of \$3,140 per-month, which consisted of Appellant's monthly social security income of \$1,451 and his wife's earned income of \$1,689.87 per-month.<sup>1</sup>

The MassHealth representative explained that to be eligible for MassHealth Standard, individuals 65 years of age or older cannot have assets that exceed \$2,000 or income that exceeds 100% of the federal poverty level (FPL). For 2023, 100% of the FPL for a household size of two, is \$1,644 per-month. Accordingly, on August 23, 2023, MassHealth notified Appellant that his coverage would change to Buy In (QI-Part B) on 9/6/23 because his income was too high to get MassHealth Standard. See Exh. 1. The MassHealth representative explained that Buy-In is Medicare Savings Program offered by MassHealth and helps pay for the individuals' Medicare Part B premium. To qualify, individuals who are married, such as Appellant, must have a combined household income at or below 225% of the FPL, or \$3,698 per-month. Because Appellant was financially eligible for buy-in, MassHealth transitioned his coverage accordingly.

Appellant appeared at the hearing via telephone and testified that he and his wife have many expenses, including rent, utility bills, and other daily living expenses that should be considered for purposes of calculating his eligibility. Appellant testified that he is disabled and needs MassHealth Standard. He explained that his wife earns \$15.50 per-hour working approximately 25 hours per-week, sometimes more, and that the paystubs provided to MassHealth show that these hours vary. Appellant did not dispute the income figures cited by MassHealth, but rather, argued that, after taxes and paying bills for necessary costs of living, they do not have any funds

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<sup>1</sup> The amount at hearing, was based on the most recent paystub submitted. However, according to the notice dated 8/23/23, MassHealth, using the information at the time of application, determined Appellant had a total countable earned income amount of \$1,137.00. As discussed in this decision, the discrepancy in figures would not change the outcome for Appellant to obtain a more favorable benefit.

remaining. It does not make sense that their income would be “too much” to qualify for Standard. For these reasons, Appellant disputed the 8/23/23 eligibility notice.<sup>2</sup>

## Findings of Fact

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

1. Appellant is over the age of 65 and lives with his wife in the community in a household size of two.
2. Appellant and his wife have a combined countable household income of \$3,140 per month.
3. On August 23, 2023, after receiving verification of Appellant’s household income, MassHealth notified Appellant that he did not qualify for MassHealth Standard because his income exceeded program limits and that his coverage type would change to Buy-In effective 9/6/23.

## Analysis and Conclusions of Law

To qualify for MassHealth Standard benefits, individuals 65 years of age or older who live in the community, such as Appellant, must have countable income at or below 100% of the federal poverty level (FPL) and have countable assets under \$2,000. See 130 CMR 519.005. MassHealth also offers Medicare Savings Programs (MSP), referred to as “Buy-In” for eligible members that have household income below 225% of the FPL, which, in 2023, is \$3,698 per month for a household of two. See 130 CMR §§ 519.010, 519.011. MassHealth regulations define “countable income amount” as an individual’s and the spouse’s gross earned and unearned income, less certain business expenses and “standard income deductions.” See 130 CMR 520.009(A)(1). Standard income deductions include a \$20 “unearned-income disregard,” earned income deductions, and for certain qualifying individuals, a personal care attendant (PCA) deduction.<sup>3</sup> See 130 CMR 520.013(B).

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<sup>2</sup> During the hearing, the parties discussed other potential MassHealth programs and options, including the frail/elder waiver and PCA deductions that are applied if certain criteria are met. The MassHealth representative informed Appellant that because he has a verified disability, he could potentially qualify for MassHealth CommonHealth if he met the criteria as a “working disabled adult,” which involves working 40 or more hours per-month, which, if approved, may carry an assessed premium.

<sup>3</sup> The PCA deduction, which is fully set forth in 130 CMR 520.013(B) is a “deduction from gross unearned income is allowed only for persons who (a) are 65 years of age and older; (b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and (c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level. As of the hearing date, there was no evidence Appellant had met the conditions to qualify for the PCA deduction.

In consideration of the above-referenced regulations and the evidence submitted at hearing, MassHealth did not err in determining that Appellant's income exceeded the program limit to qualify for MassHealth Standard. See 130 CMR 519.005. At hearing, Appellant did not dispute that he and his wife have a total combined household income of \$3,140. The monthly income for a household of two (2) that is at 100% of the FPL is \$1,644.<sup>4</sup> Thus, Appellant exceeds the income limit to qualify for MassHealth Standard. Accordingly, MassHealth determined that the next most comprehensive benefit Appellant qualified for was Buy-In, as his household income was under \$3,698, or 225% of the FPL. See 130 CMR §§ 519.010, 519.011. The eligibility determination dated 8/23/23 was correct. 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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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

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<sup>4</sup> See 2023 MassHealth Income Standards and Federal Poverty Guidelines (Rev. 3/23).