

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308066
Decision Date:	11/28/2023	Hearing Date:	10/16/2023
Hearing Officer:	Casey Groff		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Maria Rodrigues, 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

Appeal Decision:	Denied	Issue:	Eligibility; Over 65; Community; Excess Assets
Decision Date:	11/28/2023	Hearing Date:	10/16/2023
MassHealth's Rep.:	Maria Rodrigues	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	BOH (Remote)	Aid Pending:	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 July 10, 2023, MassHealth informed Appellant that she qualified for Senior Buy-In with an effective benefit start date of 6/1/23, but that she was ineligible for MassHealth Standard because her assets exceeded program limits. See Exhibit 1; 130 CMR §§ 520.028 and 520.004. Appellant filed a timely appeal with the Board of Hearings on July 10, 2023. See Exhibit 2; 130 CMR 610.015(B). Actions to terminate or limit the scope of benefits are valid basis for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth determined that Appellant was eligible for Senior Buy-In but ineligible for MassHealth Standard because her assets exceeded the regulatory limit.

Issue

The appeal issue is whether MassHealth correctly determined that Appellant was eligible for MassHealth Senior Buy-In, but that she was not eligible for MassHealth Standard.

Summary of Evidence

A MassHealth representative appeared at the hearing by telephone and testified as follows: On June 28, 2023, MassHealth received Appellant's senior application for MassHealth benefits. At the time, Appellant was receiving MassHealth Standard for individuals under the age of 65, which had been a protected benefit during the pendency of the covid-19 public health emergency (PHE). When the PHE lifted in April 2023, Appellant was no longer eligible for her existing benefit because she was over the age of 65. 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 one, is \$1,215 per-month. Based on information included in Appellant's application, MassHealth verified that Appellant owned a bank account with a balance of \$515.00 and a security valued at \$5,273.55, for a total countable asset amount of \$5,788.55 and that she had total countable income of \$1,376.00. See Exh. 1. Accordingly, through a notice dated July 10, 2023, MassHealth informed Appellant that she did not qualify for MassHealth Standard or Limited, because her assets exceeded program limits by \$3,788.55. See id.¹ The notice, however, informed Appellant that she was approved for Senior Buy-In with an effective start date of 6/1/23. See id. According to the MassHealth representative, the asset limit to qualify for a Medicare Savings Plan (MSP), such as Senior Buy-In is \$18,180.

Appellant appeared at the hearing by telephone. Through testimony and documentary submissions, Appellant presented the following evidence: Appellant suffers from diagnoses of IgE Mediated allergy to phthalic anhydride and multiple chemical sensitivities, characterized by extreme sensitivity to common chemicals in the environment, such as ink, paper, computers, pesticides, and equipment found in various modes of transportation and medical devices. See Exh. 5. The condition controls all aspects of her daily life, as exposure could risk anaphylaxis. Appellant testified that she requires a reserve of funds for expenses to limit her exposure to these chemicals. For example, she can only purchase organic foods and clothes, and can only take certain types of medications and vitamins that are typically not covered by medical insurance, even though medically necessary. Prior to hearing, Appellant sent several spreadsheets that detailed the annual cost of these specialized purchases, which, she argued, were comparatively much higher than she would pay for the non-organic or generic equivalent that she could use if she did not have this condition. See Exh. 4-8.

Appellant testified that she was the sole owner of the accounts referenced in the MassHealth

¹ The notice also informed Appellant that she had more countable income than MassHealth Standard or Limited benefits allow; however, she may become eligible by meeting a deductible of \$5,124. See Exh. 1, p. 2. The notice explained that Appellant could meet her deductible by sending MassHealth bills for medical services received before or during her deductible period of 6/1/23 to 12/1/23. The representative testified that following the 7/10/23 notice, MassHealth received copies of outstanding medical bills from Appellant. The representative clarified, however that Appellant's assets would have to be at, or under, the program limit for her to establish eligibility by meeting the deductible. Thus, the medical bills would not be relevant to Appellant's case until her assets were reduced to \$2,000 or less.

notice, and that she had full access to the funds held therein. Appellant clarified that the “security” account, as referenced by MassHealth, was a bank account. Appellant stated that the account balances have been reduced slightly due to recent expenses; however, the combined balance still exceeds \$2,000. Appellant argued that MassHealth should not count these assets against her for determining eligibility as they are solely intended for medically necessary purchases as detailed in her spreadsheets. Because she relies on these resources to maintain her health, she did not want to “spend-down” the funds unnecessarily. She said she needs MassHealth as a secondary insurance to Medicare because it helps pay for her epi-pen.²

Findings of Fact

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

1. Appellant is over the age of 65 and lives in the community in a household size of one (1).
2. On June 28, 2023, MassHealth received Appellant’s senior application for MassHealth benefits.
3. Appellant has a total countable asset amount of \$5,788.55 and a total countable income of \$1,376.00 per-month.
4. Through a notice dated July 10, 2023, MassHealth informed Appellant that she qualified for Senior Buy-In but that she did not qualify for MassHealth Standard or Limited because her countable income and countable asset amounts exceeded program limits.
5. Appellant limits her use of the funds in the accounts for purchases related to her medical condition and to limit her exposure to chemicals that she is allergic to.

Analysis and Conclusions of Law

This appeal addresses whether MassHealth correctly determined Appellant’s eligibility for

² When asked, Appellant clarified that there are no terms or conditions on her ability to access the funds within the accounts, but rather, she places self-imposed limitations on using the funds to pay for expenses solely related to her condition and to maintain her health.

MassHealth benefits pursuant to its 7/10/23 notice. As discussed at hearing, Appellant had been enrolled in MassHealth Standard through an under 65 benefit which was protected during the pendency of the public health emergency (PHE). When the PHE protection lifted in April 2023, Appellant was over the age of 65 and no longer qualified for her existing benefit. Accordingly, when Appellant sent a renewal on 6/28/23, MassHealth redetermined Appellant's eligibility using the categorical requirements and financial standards for the coverage types available to individuals aged 65 and older. According to regulations governing the eligibility review process, MassHealth will determine the most comprehensive coverage-type that is available to the applicant. See 130 CMR 519.001(C). The MassHealth coverage types available to seniors, and other qualifying individuals, are listed as follows:

(B) MassHealth Coverage Types. The MassHealth coverage types available to individuals aged 65 and older, institutionalized individuals, and those who would be institutionalized without community-based services are the following:

- (1) MassHealth Standard;
- (2) MassHealth Limited;
- (3) Medicare Savings Programs (MSP) for Qualified Medicare Beneficiaries (QMB) (Buy-In); (4) Medicare Savings Programs (MSP) for Specified Low Income Medicare Beneficiaries and Qualifying Individuals (Buy-In);
- (5) MassHealth CommonHealth; and
- (6) MassHealth Family Assistance.

See 130 CMR 519.001(B).

To qualify for MassHealth Standard, Family Assistance or Limited, 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; see also 130 CMR 520.003(A)(1).

To qualify for a Medicare Savings Program (MSP), also referred to a "Buy-In" benefit, the applicant must have assets at or below \$18,180.³ See 130 CMR 520.003(B); see also Eligibility Operations Memo 23-04, EOHHS- MassHealth (February 2023).

Countable assets are, by MassHealth definition, all assets that must be included in the determination of eligibility and include assets to which the applicant or member (or their spouse) would be entitled whether or not those assets are received. See 130 CMR 520.007. Countable assets include funds held in a bank account, securities, stocks, among other assets that are owned and/or accessible to the applicant. See 130 CMR 520.007. In contrast, assets that are "noncountable" include the member's primary home, business property, loans or

³ For married individuals, MassHealth sets forth different asset limits under its various coverage types, including Standard and Buy-In. See id.

grants, resources designated for funeral arrangements, veterans' payments, certain types of trusts, and assets that are deemed non-countable under Title XIX. See 130 CMR 520.008.

In this case, MassHealth determined that Appellant did not qualify for MassHealth Standard because she had countable assets that exceeded the \$2,000 limit. This determination was based on information Appellant disclosed to MassHealth showing that she owned two accounts that held a combined total of \$5,788.55. See Exh. 1. At hearing, Appellant did not dispute that she owned these accounts, but rather, argued that MassHealth should not count the assets against her in determining eligibility, as she relies on this reserve to make necessary purchases related to her medical condition.⁴ Appellant presented substantial evidence detailing the expenses she incurs from having to make specialized purchases and arrangements to avoid or limit chemical exposure. While Appellant understandably imposes her own strict limitations on when and how she spends her money, there is no evidence that the resources should have been deemed "non-countable" under 130 CMR 520.008. Because Appellant has full ownership and access to the funds in the accounts, MassHealth did not err in counting the account balances as available resources to Appellant when determining her eligibility. See 130 CMR 520.007.

Accordingly, MassHealth appropriately determined that Appellant exceeded the asset limit for Standard, Limited, and MassHealth Family assistance by \$3,788.55. See 130 CMR 519.005; see also 130 CMR 520.003(A)(1). MassHealth appropriately determined that the most comprehensive coverage-type available to Appellant was Senior Buy-in. See 130 CMR 519.001(C).

The only other coverage-type that Appellant *may* be eligible for is MassHealth CommonHealth, which is intended for individuals who have a verified disability. Unlike the other coverage-types offered to seniors, MassHealth does not impose an asset limit in determining financial eligibility for CommonHealth.⁵ MassHealth does, however, impose other eligibility criteria, including the requirement that the senior applicants, who have a verified disability, work at least 40 hours per-month, *or* that they currently work and have worked at least 240 hours in the six months preceding the application. See MassHealth Eligibility Operations Memo 23-19 (August 2023). As there is no verification at this time to demonstrate Appellant meets the criteria of a "disabled working adult," MassHealth did not err in determining that the most comprehensive coverage type available to Appellant was Senior Buy-In.⁶ See 130 CMR 519.001(C).

Based on the foregoing, this appeal is DENIED.

Order for MassHealth

⁴ Appellant testified that the account balances had been slightly reduced from the amounts stated in the 7/10/23 notice; however, she did not dispute that the combined balance of the accounts still exceeded \$2,000.

⁵ Financial eligibility for all CommonHealth applicants and members is based on 130 CMR 506.000 *Health Care Reform: Financial Requirements*. See 130 CMR 510.012(C).

⁶ Appellant may contact MassHealth at any time should she wish to apply for CommonHealth and/or provide MassHealth with any and all necessary verifications to demonstrate eligibility for enrollment in this program.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

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

MassHealth Disability Ombudsman: Myles Draughn, ICAMA Deputy Compact Administrator, 100 Hancock St., 1st Fl, Quincy MA 02171