

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308127
Decision Date:	11/27/2023	Hearing Date:	10/17/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Iria Saracevic, Charlestown MassHealth
Enrollment Center



*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 65; Eligibility; Assets; Individual Retirement Account
Decision Date:	11/27/2023	Hearing Date:	10/17/2023
MassHealth's Rep.:	Iria Saracevic	Appellant's Rep.:	Pro se
Hearing Location:	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 25, 2023, MassHealth denied the appellant's renewal application for MassHealth benefits because MassHealth determined that the appellant has excess countable assets. *See* 130 CMR 520.003 and Exhibit 1. The appellant filed this appeal in a timely manner on September 11, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's renewal application for MassHealth senior benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant has more countable assets than MassHealth benefits allow.

Summary of Evidence

The appellant is over the age of 65 and was a MassHealth member prior to the issuance of the

notice on appeal. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of all testimony and evidence provided at hearing.

The appellant submitted her annual renewal application on August 23, 2023. MassHealth processed the application on August 25, 2023, and determined that the appellant was over assets by \$267,621.75 due to a bank account balance of \$9409.35 and an individual retirement account (IRA) valued at \$260,212.40.

The appellant reported that she agreed with her bank account balance, but expressed confusion as to why she was deemed ineligible this year when she has had the IRA since 2019. The MassHealth representative responded that MassHealth did not receive a report of the IRA until 2021, at which point the appellant was already receiving benefits through the Senior Buy-In, and protections in place due to the COVID-19 pandemic prohibit MassHealth from terminating her benefits for financial ineligibility. The appellant adamantly stated that she has reported the IRA since 2019.

Findings of Fact

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

1. The appellant is over the age of 65 and was a MassHealth member prior to the issuance of the notice on appeal. Testimony, Exhibit 4.
2. On August 23, 2023, MassHealth received the appellant's renewal application. Testimony.
3. On August 25, 2023, MassHealth issued a notice determining that the appellant is ineligible for MassHealth benefits for being \$267,621.75 over assets due to a bank account balance of \$9409.35 and an IRA valued at \$260,212.40. Exhibit 1, Testimony.
4. MassHealth did not account for the value of the IRA in determining the appellant's financial eligibility for MassHealth until 2021, while coverage protections were in place for the COVID-19 pandemic. Testimony.
5. The appellant does not dispute the value of her bank account nor of the IRA. Testimony.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume

II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

To determine a senior's eligibility for MassHealth, the total countable-income amount and countable assets of the individual is compared to an income standard and asset limit. Specifically, with respect to assets, "[t]he total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard" may not exceed \$2000 for an individual and \$3000 for certain couples living together in the community. See 130 CMR 520.003(A).

The MassHealth regulations provide three categories of assets by which an applicant's financial eligibility is evaluated. Those include countable assets, noncountable assets, and inaccessible assets. See *generally*, 130 CMR 520.006-008. An asset is considered inaccessible when the applicant has "no legal access" to it. 130 CMR 520.006(A). This can include instances where ownership of property is subject to legal proceedings such as probate or divorce suits, or when the cash-surrender value of the life insurance has been reassigned for adjustment. *Id.* at 520.006(B).

Countable assets are defined as follows:

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.

130 CMR 520.007 (emphasis added). These can include, but are not limited to, cash, bank account balances, IRAs, Keough plans, pension funds, securities, cash surrender value of life-insurance policies, certain vehicles, certain real estate, certain SSI and RSDI benefits, trust values, and annuities. *Id.* With respect to IRAs, the regulations state only that "[f]unds in an IRA are counted as an asset in their entirety less the amount of penalty for early withdrawal." 130 CMR 520.007.

Noncountable assets are expressly defined as "those assets exempt from consideration when determining the value of assets." 130 CMR 520.008. The only assets considered noncountable are the applicant's home, assets of an SSI recipient, proceeds from the sale of a home, business and nonbusiness property, any loan or grant, funeral or burial arrangements, veteran's payments, and

balances of special-needs, pooled, and/or ICF/MR trusts. *Id.* The regulations afford no other avenue for assets to be considered noncountable.

Here, the evidence shows that the appellant is over the asset limit based on both the balance of her bank account and the value of her IRA. She argued that the IRA has never been countable before despite her reporting it to MassHealth since 2019. Although there is no reason to doubt her representation, I credit the MassHealth representative's testimony that, for whatever reason, MassHealth did not count the IRA until 2021, at which point the appellant was receiving protections pursuant to MassHealth Eligibility Operations Memo (EOM) 20-09 and its progeny, which prohibited termination of benefits for any reason other than death of the member, a lack of Massachusetts residency, or the request of the member.¹

As such, I find that MassHealth correctly considered the appellant's IRA to be a countable asset for purposes of financial eligibility for benefits. MassHealth was within its discretion to send the August 25, 2023, termination notice. The appeal is hereby 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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

¹ <https://www.mass.gov/doc/eom-20-09-masshealth-response-to-coronavirus-disease-2019-covid-19-0/download>