

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308512
Decision Date:	12/22/2023	Hearing Date:	10/20/2023
Hearing Officer:	Christopher Jones	Record Open to:	11/03/2023

Appearance for Appellant:



Interpreter:



Appearance for MassHealth:

Janine Monico - Tewksbury Ongoing



*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; Verifications; Income
Decision Date:	12/22/2023	Hearing Date:	10/20/2023
MassHealth's Rep.:	Janine Monico	Appellant's Rep.:	
Hearing Location:	Virtual	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 September 13, 2023, MassHealth recalculated the appellant's deductible to qualify for MassHealth Standard for six months. (Exhibit 1; 130 CMR 520.002.) The appellant filed a timely appeal telephonically on September 18, 2023. (Exhibit 2; 130 CMR 610.015(B).) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

Following the hearing the record was left open until November 3, 2023, for the appellant to submit income and asset verifications for MassHealth to review.

Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth Standard coverage and assessed her a six-month deductible based upon her income.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002, in determining that the appellant is financially ineligible for MassHealth Standard.

Summary of Evidence

MassHealth's representative explained that the appellant had been protected on the MassHealth Standard coverage during the Federal Public Health Emergency for Covid-19 ("FPHE"). While her benefits were protected, [REDACTED] That protection ended in April, and the appellant was sent a renewal application. MassHealth's representative testified that there were other notices that have gone out regarding the appellant's eligibility than the September 13 deductible notice. The appellant's MassHealth Standard coverage continued through August 31, but it was terminated through a notice from the [REDACTED] department, so MassHealth's representative at the hearing did not have access to it.

Regarding the appellant's current eligibility in the over-65 department, she is both over income and over assets for MassHealth Standard. The appellant has been deemed disabled by Social Security, and that if she wishes to apply for the CommonHealth program, she will need to work 40 hours per month.

The appellant testified that she is not currently working, but she is looking for work. There was also some dispute between the appellant and MassHealth regarding the income MassHealth had on file. The appellant testified that she had submitted affidavits that she and her husband were not working. She did not understand why MassHealth still had employment income for her husband, when he is not working, and she had reported multiple times that he had no income.

MassHealth's representative confirmed that there were multiple verifications in the computer system, but the Department of Revenue had reported employment income for the appellant's spouse. MassHealth had asked for additional verification to prove when the employment had ended. Amongst these addition verifications was a complete tax-return in order to verify household's rental income, multiple incomplete copies of the appellant's federal tax return have been submitted. Because there is conflicting information from the appellant and various data-match sources, MassHealth cannot accept the appellant's attestation of income. Further, MassHealth records show the appellant's countable assets are in excess of \$2,000.

The appellant testified that she has not worked since May, and her husband ended his last job in the second week of August. He started a new job, but they had not received his first paycheck yet. The appellant's husband confirmed that he never had zero income because he was either working or receiving unemployment, and that they had bank and retirement accounts that had more than \$2,000. He also confirmed that he gets his health insurance through his union, and that he knew he would not qualify for MassHealth based upon his employment income. However, they felt it was unfair for the appellant to not qualify for income because she is getting older and when you are older you should get better health coverage. He further expressed frustration with the fact that they had mailed, faxed, and dropped off verifications and MassHealth still claims they need additional information. He felt that they had submitted everything that MassHealth had asked for.

The appellant eventually testified that she had found a new job and expected to start within two weeks.

The record was left open for the appellant to submit the required documentation into the record. MassHealth requested a complete copy of the appellant's tax return with all schedules so that their rental income could be verified, as well as current income verifications. Additional verifications were requested regarding the appellant's assets. MassHealth identified a specific list of assets that the agency was aware of, and the appellant was informed that if those accounts were no longer active, they needed a letter from the financial institution verifying that the account was closed.

The appellant submitted nothing into the record.

Findings of Fact

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

- 1) The appellant [REDACTED] while her benefits were protected during the FPHE. She completed a renewal application in July 2023, and her [REDACTED] MassHealth Standard coverage was ended as of August 31, 2023. (Testimony by MassHealth's representative.)
- 2) MassHealth calculated a six-month deductible based upon Social Security Disability income and rental income totaling \$1,863.90, and spousal employment income of \$1,375.35 per month. (Exhibit 1.)
- 3) The appellant also has countable assets in excess of \$2,000. (Testimony by MassHealth's representative.)
- 4) The appellant reported her husband has zero income despite his either working or receiving unemployment benefits, and the appellant reported that she was also starting a new job shortly after the appeal. (Testimony by the appellant and the appellant's spouse.)
- 5) The hearing record was left open for the appellant to verify their assets and income, but nothing was submitted. (Exhibit 5.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. One of the major dividing lines for eligibility is the age of 65. Individuals aged 65 and older are generally governed by the regulations at 130 CMR 515.000-520.000, and those under 65 are typically determined by the regulations at 130 CMR 501.000-508.000. The requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), 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 percent 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) (emphasis added).)

MassHealth counts all assets that an individual has access to, including but not limited to, cash, bank accounts, retirement accounts, cash-surrender values for life insurance policies, as well as other resources. (See 130 CMR 520.007.) Members must cooperate with MassHealth's requests for "information necessary to establish and maintain eligibility" (130 CMR 515.008(A).)

There is no dispute that the appellant is ineligible for MassHealth Standard based upon assets. Therefore, this appeal is DENIED. Further, the appellant was offered the opportunity to verify their assets and income for the hearing record, but they declined to do so. At the end of the hearing, the appellant reported that she was starting a new job soon. If she does so, she may qualify for CommonHealth coverage with income in excess of the federal poverty level, and her assets would not be considered.

Financial eligibility for CommonHealth is determined using the rules applicable to the under-65 community. (See 130 CMR 519.012 ("MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age or older in the same manner as it is available to those younger than 65 years old.")) However, CommonHealth coverage for individuals over 65 is only for "working disabled adults ... [which] means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3) and (5) to be eligible for CommonHealth." (130 CMR 519.012(A)(1).) Those additional criteria are:

(2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month

period immediately preceding the month of receipt of the application or MassHealth's eligibility review;

(3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms;

... [and]

(5) be ineligible for MassHealth Standard

(130 CMR 505.004(B)(2), (3), (5).)

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.

Christopher Jones
Hearing Officer
Board of Hearings

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