

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308605
Decision Date:	11/9/2023	Hearing Date:	10/27/2023
Hearing Officer:	Thomas J. Goode		

Appearances for Appellant:
Pro se

Appearance for MassHealth:
Shauna Post, Springfield 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
Decision Date:	11/9/2023	Hearing Date:	10/27/2023
MassHealth's Rep.:	Shauna Post	Appellant's Rep.:	Pro se
Hearing Location:	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 September 9, 2023, MassHealth terminated Appellant's MassHealth benefits because MassHealth determined that assets exceed program limits (130 CMR 520.003, 520.004 and Exhibit 1). Appellant filed an appeal in a timely manner on September 20, 2023 and has been receiving aid pending the outcome of the appeal (130 CMR 610.015(B), 610.036, and Exhibit 2). Termination of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated Appellant's MassHealth benefits because MassHealth determined that assets exceed program limits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, 520.004 in terminating Appellant's MassHealth benefits because assets exceed program limits.

Summary of Evidence

The MassHealth representative testified that Appellant is over 65 years of age and completed a redetermination for MassHealth benefits in August 2023. Appellant had been receiving MassHealth Standard coverage under regulations applicable to individuals under 65 years of age, which remained in effect due to pandemic protections. MassHealth determined Appellant's eligibility based on regulations applicable to members over 65 years of age. Appellant and his spouse are a married couple living in a household size of two people in the community. Combined household income is \$2,720.80 from Social Security, which equates to 164% of the federal poverty level. Appellant has been determined disabled by Social Security. Appellant is not currently employed. Household assets total \$244,404.73 consisting of retirement accounts, securities, bank accounts, and real estate value. Because assets exceed \$3,000, Appellant's MassHealth Standard coverage was terminated. The MassHealth representative reviewed eligibility for CommonHealth, the Frail Elder Waiver, and PCA services.

Appellant confirmed assets and income. Appellant testified that he and his wife are not receiving income from \$106,000 in assets held in retirement accounts because tax penalties would apply. Appellant added that some assets were put in their name without his knowledge following the death of a family member, and that he is trying to rectify ownership of those assets. Appellant testified that he has a cardiac condition that requires multiple medications.

Findings of Fact

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

1. Appellant had been receiving MassHealth Standard coverage under regulations applicable to members under 65 years of age and remained in effect due to pandemic protections.
2. Appellant is over 65 years of age, and lives in the community in a household size of two people who are a married couple.
3. Combined household income is \$2,720.80 from Social Security, which equates to 164% of the federal poverty level.
4. Appellant is disabled and is not employed.
5. Appellant's assets total \$244,404.73 consisting of retirement accounts, securities, bank accounts, and real estate value.
6. 100% of the federal poverty level for a household of 2 is \$1,644.

Analysis and Conclusions of Law

130 CMR 519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C)¹, 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% 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.²

(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.

Appellant is over 65 years of age, and lives in the community in a household size of two people who are a married couple. Appellant's assets, including retirement accounts, exceed \$3,000.^{3,4} Appellant is disabled, and is not employed. Therefore, MassHealth correctly terminated Appellant's MassHealth coverage by notice dated September 9, 2023.⁵

The appeal is DENIED.

¹ This section applies to parents and caretaker relatives of children younger than 19 years old.

² See also 130 CMR 520.003: *Asset Limit* (A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits: (1) for an individual — \$2,000; and (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

³ Countable assets are all assets that must be included in the determination of eligibility. 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 (130 CMR 520.007). An Individual Retirement Account (IRA) is a tax-deductible savings account that sets aside money for retirement. Funds in an IRA are counted as an asset in their entirety less the amount of penalty for early withdrawal (130 CMR 520.007(C)).

⁴ Although Appellant's income is within program limits for MassHealth Buy-In, assets exceed the limit for Medicare Savings Programs (130 CMR 519.011(B)(1)).

⁵ Household income exceeds program limits for MassHealth Standard (130 CMR 519.005(A)(1)); however, because Appellant is disabled, he is potentially eligible for CommonHealth (See 130 CMR 519.012).

Order for MassHealth

None, other than rescind aid pending.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Appeals Coordinator: Dori Mathieu, Springfield MassHealth Enrollment Center