

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2308697
<b>Decision Date:</b>	12/11/2023	<b>Hearing Date:</b>	10/23/2023
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**

*Via telephone:*

Pro se

**Appearance for MassHealth:**

*Via telephone:*

Lindsey Carney, Tewksbury 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; Income
<b>Decision Date:</b>	12/11/2023	<b>Hearing Date:</b>	10/23/2023
<b>MassHealth's Rep.:</b>	Lindsey Carney	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center 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 September 10, 2023, MassHealth informed the appellant that her MassHealth coverage would change from MassHealth Standard with Senior Buy-In to the Senior Buy-In because her income was too high for MassHealth Standard (Exhibit 1). The appellant filed this appeal in a timely manner on September 22, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial and/or modification of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant MassHealth Standard benefits.

### Issue

The appeal issue is whether MassHealth correctly determined that the appellant is not eligible for MassHealth Standard benefits because she is over the allowable income limit.

## Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: on August 5, 2023, MassHealth processed a renewal application received on behalf of the appellant and issued a request for information to verify the appellant's health insurance and assets. MassHealth received the requested information on September 10, 2023 and processed it on the same day. The appellant has gross monthly Social Security Income (SSI) of \$1,236. With the \$20 disregard, her countable income is \$1,216 per month, putting her \$1 over the income limit to qualify for MassHealth Standard benefits. That income limit is 100% of the Federal Poverty Level (FPL), which for 2023 is \$1,215 per month for a household of one. On September 10, 2023, MassHealth informed the appellant that her coverage would change from MassHealth Standard with the Senior Buy-In to the Senior Buy-In, which is the notice under appeal. The MassHealth representative explained the personal care attendant (PCA) disregard and Frail Elder Waiver as possible ways for the appellant to qualify for MassHealth Standard benefits; however, the appellant responded that she cares for herself and does not need any help in her home at this time.

The appellant appeared at hearing via telephone and testified as follows: the income reported is accurate, but she is only \$1 over the limit. In January, her SSI increased by \$99, but at the same time, her rent increased \$30 per month and she requires numerous medications, both prescription and over-the-counter. After paying for all of that, she only keeps about \$5 from that SSI increase. The appellant had thyroid cancer last year and is now dealing with squamous cell cancer in her nose, which so far has involved radiation and two reconstructive surgeries. She will need a third reconstructive surgery soon. The loss of MassHealth Standard is significant to her and very stressful. She is looking for some flexibility given her health situation and how close she is to the limit.

The MassHealth representative stated that the income limits are very strict and there isn't any flexibility. But in response to learning of the appellant's health situation, the MassHealth representative explained MassHealth CommonHealth as a way for an individual with a disability to qualify for more comprehensive MassHealth benefits. She will send the appellant the information on CommonHealth, the Adult Disability Supplement, and a sample working letter.

MassHealth stated that the appellant's Senior Buy-In benefits were protected during the appeal process through aid pending. MassHealth's records showed that the appellant's MassHealth Standard benefits terminated on September 24, 2023. It was unclear why only Senior Buy-In benefits were protected by aid pending and not her MassHealth Standard benefits, since the appellant had appealed in time to have it protected, pursuant to 130 CMR 610.036. After hearing, this hearing officer followed up with an administrator at the Board of Hearings to determine if that was in error. The administrator stated that there was an error and aid pending protection on MassHealth Standard with Senior Buy-In was put in place and backdated, so there was no gap in

coverage. A Board of Hearings paralegal called the appellant to notify her of the updated aid pending coverage, which would remain in place throughout the appeal process.

## Findings of Fact

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

1. On September 10, 2023, MassHealth notified the appellant, who is over the age of 65, that her MassHealth benefits would change from MassHealth Standard with Senior Buy-In to Senior Buy-In because her income was too high to qualify for MassHealth Standard (Testimony and Exhibit 1).
2. The appellant has gross monthly income of \$1,236. With the \$20 disregard, her countable income is \$1,216 per month, putting her \$1 over the income limit to qualify for MassHealth Standard benefits (Testimony and Exhibit 1).
3. To qualify for MassHealth Standard coverage, the appellant's countable income would have to be at or below 100% of the Federal Poverty Level (FPL), which for 2023 is \$1,215 per month for a household of one (Testimony).
4. On September 22, 2023, the appellant timely appealed the notice (Exhibit 2).
5. The appellant did not dispute her income (Testimony).
6. The appellant's MassHealth Standard benefits with Senior Buy-In were protected through aid pending during the appeal process (Testimony and Exhibit 5).

## Analysis and Conclusions of Law

130 CMR 519.005 states the following for 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.**

(Emphasis added).

As explained above, to qualify for MassHealth Standard benefits, the countable income of an individual who is over the age of 65 must be equal to or less than 100% of the Federal Poverty Level which for a household of one is \$1,215. The appellant's most recently verified gross monthly income is \$1,236 from Social Security. With the \$20 disregard, her countable income is \$1,216, which is above the allowable limit, even if by only \$1, to qualify for MassHealth Standard benefits. As such, MassHealth correctly determined that the appellant qualifies for MassHealth Senior Buy-In benefits, but not MassHealth Standard benefits. For these reasons, 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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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

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