

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed; Denied	<b>Appeal Number:</b>	2308715
<b>Decision Date:</b>	12/21/2023	<b>Hearing Date:</b>	10/27/2023
<b>Hearing Officer:</b>	Christopher Jones	<b>Record Open to:</b>	11/10/2023

**Appearance for Appellant:**



**Appearance for MassHealth:**  
Mul Oeur – Taunton 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

<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Issue:</b>	Over-65; Eligibility; Income; CommonHealth
<b>Decision Date:</b>	12/21/2023	<b>Hearing Date:</b>	10/27/2023
<b>MassHealth's Rep.:</b>	Mul Oeur	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Telephonic	<b>Aid Pending:</b>	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 5, 2023, MassHealth downgraded the appellant's coverage from MassHealth Standard to Buy-in for Specified Low Income Medicare Beneficiaries based upon the appellant's income. (Exhibit 1; 130 CMR 519.002; 519.010.) The appellant filed this timely appeal on September 22, 2023. (Exhibit 2; 130 CMR 610.015(B).) Limitations on assistance are valid grounds for appeal. (130 CMR 610.032.)

Following the hearing, the record was left open until November 10, 2023, for the appellant to submit a working-disabled letter to qualify for CommonHealth coverage.

### Action Taken by MassHealth

MassHealth downgraded the appellant's coverage from MassHealth Standard to Buy-in because his income was over the federal poverty level.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002, in determining that the appellant's income was too high to qualify for MassHealth Standard.

## Summary of Evidence

MassHealth's eligibility representative explained that the appellant had been protected on the MassHealth Standard coverage during the Federal Public Health Emergency for Covid-19 ("FPHE"). During the FPHE, the appellant [REDACTED], and the rules governing his eligibility changed. MassHealth's representative testified the appellant completed an application for over-65 benefits on or around September 1, 2023. The appellant has a household of one, and he receives \$1,784 per month in gross Social Security Disability benefits. Because this income over the federal poverty level of \$1,215 per month, the appellant was not eligible for MassHealth Standard.

The appellant could be eligible for MassHealth Standard coverage if he was found eligible for the Frail Elder Waiver. He was told to contact the agency that manages his personal-care attendant ("PCA") to ask if they are able to evaluate him for the waiver programs. MassHealth also explained that the appellant could be eligible for CommonHealth coverage if he were working at least 40 hours per month. The appellant's PCA testified that she had been paying the appellant for at least 40 hours a month to watch her dog for her. The hearing record was left open for a working-disabled letter to be submitted. MassHealth accepted the submitted letter and confirmed that the appellant was retroactively approved for CommonHealth coverage as of August 22, 2023, the day on which his MassHealth Standard coverage ended.

## Findings of Fact

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

- 1) The appellant is over the age of 65 and he has a household of one. (Testimony by MassHealth's representative.)
- 2) The appellant receives gross Social Security Disability income of \$1,784. (Testimony by MassHealth's representative.)
- 3) During the record open period, the appellant submitted a letter verifying his employment, and MassHealth approved him for CommonHealth as of August 22, 2023. (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).)

The financial rules set out at 130 CMR 520.000 explain that all of an individual's "gross earned and unearned income less certain business expenses and standard income deductions" is countable, and "the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility." (130 CMR 520.009(A)(1)-(2).) There are only two income deductions for community residents with unearned income: (1) "a deduction of \$20 per individual or married couple" or (2) a larger deduction if the individual "requires assistance from a personal care attendant." (130 CMR 520.013(A)-(B).) If the applicant's income is over 133% of the federal poverty level prior to the PCA deduction, the applicant receives a deductible. (130 CMR 520.013(C).)

After the \$20 standard deduction, the appellant's monthly income is \$1,764. This is equivalent to 145% of the federal poverty level. As this is greater than 133% of the federal poverty level, the appellant would not be eligible for MassHealth Standard without a deductible, even with the larger PCA-deduction. Therefore, this appeal is DENIED in part.

As a disabled adult aged 65 or older, however, the appellant is eligible for CommonHealth coverage with income in excess of the federal poverty level. (See 130 CMR 519.012.) The appellant has already been approved for CommonHealth, starting the day his Standard coverage ended. To the extent that this appeal is for CommonHealth coverage, it is DISMISSED in part.

## **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: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780