

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2308797
Decision Date:	12/11/2023	Hearing Date:	10/27/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

Pro se

Appearance for MassHealth:

Via telephone:

Dianne Braley, Taunton 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:	Approved in part; Denied in part	Issue:	Over 65; Eligibility; Over Income
Decision Date:	12/11/2023	Hearing Date:	10/27/2023
MassHealth's Rep.:	Dianne Braley	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center 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 September 8, 2023, MassHealth notified the appellant that she had more countable income than MassHealth benefits allowed (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 termination of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth informed the appellant that her MassHealth benefits were terminating because she was over the countable income limit.

Issue

The appeal issue is whether MassHealth was correct in terminating her MassHealth benefits because she had more countable income than MassHealth allows.

Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: the appellant is a single individual over the age of 65. MassHealth received a renewal application on June 30, 2023 and it was processed on July 7, 2023. On September 8, 2023, MassHealth received verifications from the appellant and issued the termination notice under appeal because the appellant had more countable income than MassHealth benefits allowed. The notice informed her that her coverage would end on September 22, 2023 and she was eligible for the Health Safety Net, effective September 8, 2023. Based on her income, MassHealth had calculated a deductible of \$4,548, which the appellant could meet to qualify for MassHealth Standard benefits. At that time, verifications showed that the appellant had \$2,374.56 in gross monthly income from Social Security and a pension. Her assets were under the \$2,000 asset limit. MassHealth explained that the income limit is 100% of the Federal Poverty Level (FPL), which for a household of one in 2023 is \$1,215 gross per month.

On September 19, 2023, the appellant submitted additional verifications including updated income information and the Personal Care Attendant (PCA) supplement. MassHealth updated her gross monthly income to \$2,204.91 and applied the PCA disregard of \$1,094, which lowered the deductible the appellant would have to meet to become eligible for MassHealth Standard benefits. MassHealth issued a new notice on September 19, 2023 informing her that she was over income, eligible for the Health Safety Net effective September 1, 2023, and had a total deductible amount of \$3,868.

The appellant did not dispute her income. But disagreed with the sudden termination of her benefits. She is in the process of receiving a dental implant; receives behavioral health care; and works with a foot doctor. She needed additional time to finish treatment while she still had her full coverage.

The MassHealth representative explained that appellant's MassHealth Standard and Senior Buy-in benefits were protected by aid pending throughout the appeal process. Additionally, she explained the Frail Elder Waiver; however, the appellant stated she spoke with her local elder services provider and she was not eligible. The MassHealth representative stated that once the appeal process was over and aid pending is removed, the appellant would be eligible for the Senior Buy-In based on her most recently verified income.

Findings of Fact

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

1. The appellant is over the age of 65 and has a household size of one (Testimony and Exhibit 4).

2. On September 8, 2023, MassHealth informed the appellant that her MassHealth coverage would terminate on September 22, 2023 because she had more countable income than MassHealth benefits allow. This is the notice under appeal. (Testimony and Exhibit 1).
3. At the time of the notice, MassHealth determined the appellant's gross monthly income was \$2,374.56 and her assets were under \$2,000 (Testimony and Exhibit 1).
4. On September 19, 2023, MassHealth received additional verifications, including updated monthly income of \$2,204.91 and the PCA supplement (Testimony and Exhibit 5).
5. The appellant did not dispute her income.
6. To qualify for MassHealth Standard coverage, the appellant's income would have to be at or below 100% of the Federal Poverty Level, or \$1,215 monthly for a household of one, and her assets at or below \$2,000 (Testimony).
7. The appellant's MassHealth Standard benefits with Senior Buy-In were protected during the appeal process by aid pending. (Testimony).

Analysis and Conclusions of Law

Pursuant to 130 CMR 519.005, the following applies to MassHealth Standard coverage 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).

Additionally, MassHealth allows for certain deductions from total gross unearned income including the following found at 130 CMR 520.013(B):

(B) in determining eligibility for MassHealth Standard, a deduction that is equivalent to the difference between the applicable MassHealth deductible-income standard at 130 CMR 520.030 and 133% of the federal poverty level.

This deduction includes, and is not in addition to, the \$20 disregard.

(1) This deduction from gross unearned income is allowed only for persons who

(a) are 65 years of age and older;

(b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and

(c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level...

(3) If countable income, **prior to applying the deduction at 130 CMR 520.013(B), is greater than 133% of the federal poverty level, eligibility is determined under 130 CMR 519.005(B): *Financial Standards Not Met.***

130 CMR 519.005(B) states the following where financial standard are 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.

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 \$2,204.91 from Social Security and a pension, which is above the allowable limit to qualify for MassHealth Standard benefits. With the \$1,094.00 PCA disregard, her countable income is reduced to \$1,110 for purposes of recalculating and lowering the deductible the appellant can meet to qualify for MassHealth Standard; however, it does not qualify her for MassHealth Standard, pursuant to 130 CMR 520.013(B)(3) and 130 CMR 519.005(B). As such, MassHealth correctly determined that the appellant was over the income limit for MassHealth Standard. For these reasons, the appeal is denied in part.

Effective January 1, 2023, the Medicare Savings Programs, which are also known as Buy-In, changed the income and asset limits for the three Massachusetts Medicare Savings Programs: Senior Buy-In/Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualifying Individuals (QI). 130 CMR 519.010(A) states the following regarding eligibility requirements for the MSP QMB (or Senior Buy-In) in relevant part:

MSP (Buy-in) (QMB) coverage is available to Medicare beneficiaries who...

(2) have a countable income amount (including the income of the spouse with whom he or

she lives) that is less than or equal to 190% of the federal poverty level. MassHealth will disregard all assets or resources when determining eligibility for MSP only benefits...

For 2023, 190% of the Federal Poverty Level is \$2,309 monthly. The appellant's monthly income of \$2,204.91 is below the 190%, or \$2,309, limit for the Senior Buy-In and her assets, which are under \$2,000, are disregarded. Accordingly, the appellant qualifies for MSP QMB (or Senior Buy-In) and the appeal is approved in part.

Order for MassHealth

Approve the appellant for Senior Buy-In/QMB effective as of the date of this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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