

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308932
Decision Date:	12/19/2023	Hearing Date:	10/26/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:

Pro se

Appearance for MassHealth:

Alain Michel, Tewksbury MassHealth
Enrollment Center



*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; Income
Decision Date:	12/19/2023	Hearing Date:	10/26/2023
MassHealth's Rep.:	Alain Michel	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 22, 2023, MassHealth approved the appellant's application for benefits and determined he is eligible for the Senior Buy-In. Exhibit 1. The appellant filed this appeal in a timely manner on September 27, 2023, asserting that he should be eligible for MassHealth Standard benefits. *See* 130 CMR 610.015(B) and Exhibit 2. Agency action to reduce or restrict a member's benefits is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth approved the appellant for Senior Buy-In coverage instead of Standard.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is eligible for the Senior Buy-In and not Standard benefits.

Summary of Evidence

The appellant is a single adult over the age of 65. MassHealth was represented by a worker from

the Tewksbury MassHealth Enrollment Center (MEC) who also appeared telephonically. All parties appeared by telephone. The following is a summary of the testimony and evidence provided at hearing:

The MassHealth representative testified that the appellant was approved for the Senior Buy-In on September 22, 2023.¹ MassHealth determined that he was not eligible for Standard benefits because his monthly income is \$1222.00, which she receives in the form of Social Security benefits. The MassHealth representative reported that 100% of the federal poverty level for a family of one is \$1215.00. It was reported that the appellant is under the asset limit required to qualify for senior benefits.

The appellant's representative agreed with MassHealth regarding their calculation of his income. He expressed confusion as to why his benefits changed when his income did not. The MassHealth representative explained that, although the appellant turned ■ in ■, he was still receiving MassHealth Standard through protections put in place during the COVID-10 pandemic. When his eligibility was redetermined this year, he was evaluated using the financial regulations for seniors, for which his income was just over the limit. The MassHealth representative explained several avenues by which the appellant may be able to qualify for benefits, none of which are relevant to this appeal.

Findings of Fact

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

1. The appellant is a single adult over the age of 65. Exhibit 4, Testimony.
2. The appellant currently earns \$1222.00 per month in income and possesses less than \$2000 in countable assets. Exhibit 1, Testimony.
3. On September 22, 2023, MassHealth approved the appellant for coverage under the Senior Buy-In. Exhibit 1.
4. The appellant filed a timely appeal on September 27, 2023. Exhibit 2.
5. The appellant does not contest MassHealth's calculation of his income. Testimony.

¹ The appellant should be advised that through the Senior Buy-In, "The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles *and* coinsurance under Medicare Parts A and B." 130 CMR 519.010(B) (emphasis added).

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

To determine a senior's eligibility for MassHealth, the total countable-income amount and countable assets of the individual are compared to an income standard and asset limit. An individual who is eligible for Medicare Parts A and B must possess an income that is "less than or equal to 100% of the federal poverty level." 130 CMR 519.002(A)(4)(c). The current MassHealth federal poverty level standards can be found on its website, and 100% of the federal poverty level for a single person is \$1215.00 in monthly income.²

In this case, the appellant does not dispute that his current monthly income is \$1222.00. As that amount exceeds 100% of the poverty level based on 2023 standards, the appellant is not eligible for MassHealth Standard and was rightly placed on the Senior Buy-In. Although it is true that the appellant's monthly income is only \$7.00 over the regulatory limit, there is no legal avenue for this hearing officer to make an equitable decision to place him on Standard benefits. See 130 CMR 610.082(C)("[the hearing officer's] decision must be rendered in accordance with the law...[including] state and federal constitutions, statutes, and duly promulgated regulations, as well as decisions of the state and federal courts"). Any challenge to the legality of the MassHealth regulations cannot be rule on by the hearing officer and must be subject to judicial review in accordance with 130 CMR 610.092. Therefore, MassHealth did not err in issuing the September 22, 2023, notice, and the appeal is thereby denied.

Order for MassHealth

None, except to remove 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

² <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

receipt of this decision.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290