

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2309141
Decision Date:	12/22/2023	Hearing Date:	11/02/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:  
*Pro se*

Appearance for MassHealth:  
*Via videoconference*  
Janine Monico



*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	<b>Issue:</b>	Eligibility; Over 65; Over income
<b>Decision Date:</b>	12/22/2023	<b>Hearing Date:</b>	11/02/2023
<b>MassHealth's Rep.:</b>	Janine Monico	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 1	<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 August 3, 2023, MassHealth notified the Appellant that she was over the allowable income limit to receive MassHealth Standard or Limited benefits. The notice further informed the Appellant that she was eligible to receive Senior Buy In benefits. (130 CMR 520.002; 520.028; Exhibit 1). The Appellant filed this appeal in a timely manner on September 29, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the Appellant that she was not eligible to receive MassHealth Standard or Limited benefits because MassHealth determined that she was over the allowable income limit.

### Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is over the

allowable income limit to receive MassHealth Standard or Limited benefits.

## Summary of Evidence

A MassHealth representative appeared at the hearing by videoconference and testified as follows: MassHealth received the Appellant's renewal application in June of 2023. A request for information was sent to the Appellant in July of 2023. The Appellant sent MassHealth additional documentation and she was subsequently approved for MassHealth Senior Buy In benefits. The MassHealth representative explained that the Appellant is slightly over the income limits (by \$ 19.00) to receive MassHealth Standard or Limited benefits. The MassHealth representative further explained that the Appellant has a federal disability on file so she may qualify for MassHealth CommonHealth benefits. Further, if the Appellant requires a Personal Care Attendant (hereinafter "PCA"), the MassHealth representative testified that there is a PCA Supplement that the Appellant could submit which would disregard a portion of her income and could result in approval of MassHealth Standard benefits. Finally, the Appellant may opt to apply for the Frail Elder Waiver program.

The Appellant appeared at the hearing and testified that she currently has a PCA. She explained that she will lose her PCA and her health care coverage if she does not maintain MassHealth Standard coverage. The Appellant testified that her income has not changed and made inquiry as to what is different now. In response, the MassHealth representative explained that the regulations are different for members under the age of 65 and for members 65 and older. Specifically, the Federal Poverty Level (hereinafter "FPL") is 133 percent for members under 65 and 100 percent for members 65 and older. Thus, for members 65 and older, 100 percent of the FPL equates to the monthly income limit of \$ 1,215.00. The MassHealth representative testified that the Appellant's monthly income, with a \$ 20.00 disregard equates to \$ 1,234.00. Thus, the Appellant is over the income limit by \$ 19.00. The MassHealth representative inquired whether the Appellant would like her to mail out a PCA Supplement for her to fill out and return to MassHealth. She explained that because the Appellant is currently receiving PCA services, MassHealth may be able to disregard a portion of the Appellant's income so that she can qualify for MassHealth Standard benefits and subsequently enroll into a Senior Care Option (SCO) plan with Commonwealth Care Alliance.<sup>1</sup> The MassHealth representative suggested that the Appellant submit a completed PCA Supplement.

The Appellant made inquiry as to whether she could fill out the PCA Supplement in person. In response, the MassHealth representative testified that she could do so, and suggested that the Appellant ask for a Supplement C form to be completed at the front desk, following the hearing. The Appellant expressed her concerns about losing coverage because she is not able to afford it based on her limited income. The MassHealth representative testified that the Appellant may

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<sup>1</sup> For questions pertaining to coverage pursuant to Senior Care Option plans, the Appellant is encouraged to contact Commonwealth Care Alliance directly.

qualify for the Frail Elder Waiver program if she feels that she needs additional assistance in the community. She explained that if the Appellant chose to apply for a frail elder waiver, the Appellant would need to contact her local elder services agency to schedule a clinical evaluation to ascertain her eligibility.

The Appellant next inquired as to whether she would still have the option of having a Department of Mental Health (DMH) worker assist her. She explained that she maintained the same DMH worker for the past 11 years. The Appellant further explained that she suffered from a stroke and as a result, lost a great deal of mobility. The MassHealth representative explained that she did not believe MassHealth coverage would affect the Appellant's status with her DMH worker. As to her PCA, the Appellant expressed her appreciation for his assistance and testified that she is afraid of losing said assistance because of a \$ 19.00 difference in her income. The MassHealth representative explained that the PCA Supplement should assist the Appellant in obtaining MassHealth Standard coverage again and reiterated other options that may be available to the Appellant, such as MassHealth CommonHealth coverage and the Frail Elder Waiver program. The Appellant testified that she would move forward with filing a PCA Supplement with MassHealth. The MassHealth representative explained how to do so in person. The Appellant expressed her appreciation for the additional information.

## **Findings of Fact**

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

1. The Appellant is between the ages of 65 and 99. (Exhibit 3).
2. On August 3, 2023, MassHealth notified the Appellant that she was over the allowable income limit to receive MassHealth Standard or Limited benefits. (Exhibit 1).
3. The Appellant timely appealed on September 29, 2023. (Exhibit 2).
4. The Appellant currently maintains PCA services. (Testimony).
5. To obtain MassHealth Standard coverage for members 65 years of age and older, monthly income cannot exceed 100 percent of the FPL, or \$ 1,215.00. (Testimony).
6. The Appellant's monthly income amounts to \$ 1,234.00, less a \$ 20.00 disregard, for a total of \$ 1,234.00. (Testimony; Exhibit 1, p. 3).
7. For members that require PCA assistance, MassHealth may disregard a portion of income upon receipt of a completed PCA Supplement to obtain Standard coverage. (Testimony).

8. The Appellant will fill out the PCA Supplement in person, following the hearing. (Testimony).

## Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the Appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;
- (6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;
- (7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;
- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;
- (9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;
- (10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or
- (11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

In the present case, the Appellant agreed to the MassHealth representative's suggestion of filing a PCA Supplement to obtain MassHealth Standard coverage. She testified that she would do so in person, following the hearing. Because the appeal issue has been resolved in the Appellant's favor,

there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed. Any subsequent MassHealth notices received may be separately appealed.

## **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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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

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