

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2309382
<b>Decision Date:</b>	12/28/2023	<b>Hearing Date:</b>	11/06/2023
<b>Hearing Officer:</b>	Casey Groff		

**Appearance for Appellant:**  
*Pro se*

**Appearance for MassHealth:**  
Lindsey Carney, Tewksbury



*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>	12/28/2023	<b>Hearing Date:</b>	11/06/2023
<b>MassHealth's Rep.:</b>	Lindsey Carney	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (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 9/25/23, MassHealth informed Appellant that it was ending her MassHealth coverage on 10/9/23 because her countable income that exceeded program limits. See Exh. 1; 130 CMR §§ 520.002, 520.028. Appellant filed this appeal in a timely manner on 10/6/2023. See Exh. 2; 130 CMR 610.015(B). Denial or termination of coverage is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth determined Appellant was no longer eligible for Standard with QMB because her countable income exceeded program limits, and on this basis, sought to end her coverage on 10/9/23.

### Issue

The appeal issue is whether MassHealth correctly determined that Appellant's income exceeded program limits, and, as a result, informed her that her benefits would end on 10/9/23.

### Summary of Evidence

A MassHealth eligibility representative appeared at hearing and testified as follows: Appellant is over the age of 65 and lives in the community in a household size of one (1). During the federal Public Health Emergency (PHE), Appellant was enrolled in MassHealth Standard with a qualified member beneficiary (QMB) Medicare Savings Plan (MSP) benefit. The benefits remained protected until the PHE lifted on 4/1/23. On 4/14/23, MassHealth received Appellant's renewal application for senior benefits, and on the same day, issued a request for information. MassHealth subsequently received all requested information, which verified that Appellant receives gross social security income of \$2,630 per month. This places her at approximately 216% of the FPL.

The MassHealth representative testified that to be eligible for MassHealth Standard, individuals 65 years of age or older cannot have assets that exceed \$2,000 or income that exceeds 100% of the federal poverty level (FPL). For 2023, 100% of the FPL for a household size of one is \$1,215 per month. Accordingly, on 9/25/23, MassHealth notified Appellant that it was ending her Standard and QMB coverage on 10/9/23 because she had "more countable income than MassHealth benefits allow. 130 CMR 520.002 520.028." See Exh. 1. The notice also indicated that she would be eligible for health safety net effective 9/25/23 with a family deductible of \$960.00." See id.

Appellant appeared at hearing by telephone and testified that she has received MassHealth coverage for many years and will not be able to afford the additional expenses that she will incur without it. Appellant did not dispute the gross social security income cited by MassHealth; however, explained that the net amount she receives since her coverage ended is lower because Medicare premiums are being deducted. She now has even less income that she can use for living expenses. Appellant testified that she has health problems for which she is currently being treated. She has upcoming medical appointments and takes approximately 17 medications that she will not be able to afford. Appellant stated she has nothing left at the end of the month to pay these additional costs.

In response, the MassHealth representative stated that because MassHealth uses gross income to determine eligibility, the lower net amount of social security Appellant receives (due to her Medicare premium deduction) would not change Appellant's financial eligibility. MassHealth also provided Appellant with information regarding other potential programs that she could apply for, including the frail elder waiver, and noted that these would require Appellant to seek an evaluation to determine whether she meets categorical requirements specific to the program.

## **Findings of Fact**

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

1. Appellant is over the age of 65 and lives in the community in a household size of one (1).
2. During the PHE, Appellant was enrolled in MassHealth Standard with a QMB MSP benefit, which remained protected until the PHE lifted on 4/1/23.
3. On 4/14/23, MassHealth received Appellant's renewal for senior benefits, and on the same day, issued a request for information.
4. MassHealth received all requested information, which included verification that Appellant received gross social security income of \$2,630 per-month.
5. On 9/25/23, MassHealth notified Appellant that it was ending her Standard and QMB coverage on 10/9/23 because she had "more countable income than MassHealth benefits allow. 130 CMR 520.002 520.028." (Testimony; Exhibit 1).
6. Appellant did not dispute the income figure MassHealth used in making its 9/25/23 eligibility determination.

## Analysis and Conclusions of Law

To qualify for MassHealth Standard, individuals 65 years of age or older who live in the community, such as Appellant, must have countable income at or below 100% of the federal poverty level (FPL) and have countable assets under \$2,000. See 130 CMR 519.005. MassHealth also offers Medicare Savings Programs (MSP), referred to as "Buy-In" programs which help pay for certain low-income Medicare recipients' premiums, deductibles, copayments, and co-insurance. Appellant was enrolled in MassHealth's Buy-In program for Qualified Medicare Beneficiaries (QMB). To qualify for QMB, MassHealth requires that the individual have countable income less than or equal to 190% of the FPL and assets that do not exceed \$18,180. See 130 CMR 519.010(A). MassHealth regulations define "countable income amount" as an individual's and the spouse's gross earned and unearned income, less certain business expenses and "standard income deductions." See 130 CMR 520.009(A)(1).

In consideration of the above-referenced regulations and the evidence submitted at hearing, MassHealth did not err in determining that Appellant's income exceeded the program limits to qualify for MassHealth Standard and QMB Buy-In. See 130 CMR §§ 519.005, 519.010. At hearing, Appellant did not dispute that her gross social security income is \$2,630. For 2023, the monthly income for a household size of one at 100% of the FPL is \$1,215; and the income for a household of one to be at 190% of the FPL, is \$2,309.<sup>1</sup> Thus, Appellant exceeds the income limits to

---

<sup>1</sup> See 2023 MassHealth Income Standards and Federal Poverty Guidelines (Rev. 3/23).

qualify for both MassHealth Standard and QMB.<sup>2</sup> Accordingly, MassHealth appropriately determined, pursuant to its 9/25/23 notice that Appellant no longer qualified for her existing coverage and informed her that her coverage would end on 10/9/23. See 130 CMR §§ 519.010, 519.011. 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.

---

Casey Groff  
Hearing Officer  
Board of Hearings

cc:

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

---

<sup>2</sup> MassHealth offers two alternative MSP coverage-types for Specified Low Income Medicare Beneficiaries (SLMB) and Qualifying Individuals (QI) that have income between 190%-210% of the FPL and 210%-225% of the FPL, respectively. See 130 CMR 519.011. Both alternatives currently impose a household asset limit of \$18,180. See id. The financial requirements, however, are specific to individuals seeking only MSP benefits (i.e., not seeking full MassHealth coverage) and require a separate application which Appellant may find at:

<https://www.mass.gov/lists/applications-to-become-a-masshealth-member>.

It is also noted that, effective 3/1/24, MassHealth will eliminate the asset limit and disregard all asset/resources when determining eligibility for MSP-only benefits. See MassHealth Eligibility Letter 246 (Dec. 2023).