

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2309383
<b>Decision Date:</b>	11/16/2023	<b>Hearing Date:</b>	10/30/2023
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	11/14/2023

**Appearances for Appellant:**



**Appearance for MassHealth:**

Meghan Adie, Tewksbury MassHealth  
Enrollment Center (by telephone)



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community MassHealth, Over Age 65
<b>Decision Date:</b>	11/16/2023	<b>Hearing Date:</b>	10/30/2023
<b>MassHealth Rep.:</b>	Meghan Adie	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (remote)	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated September 22, 2023, MassHealth notified the appellant that he is not eligible for MassHealth due to excess assets (Exh. 1). The appellant filed a timely appeal of this notice with the Board of Hearings (BOH) on October 6, 2023 (130 CMR 610.015; Exh. 2). Denial of assistance is valid grounds for appeal to the BOH (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant is not eligible for MassHealth due to excess assets.

### Issue

Did MassHealth correctly determine that the appellant is not eligible for MassHealth due to excess assets?

### Summary of Evidence

A MassHealth representative from the Tewksbury MassHealth Enrollment Center testified by

telephone that the appellant, a single individual who is not disabled and lives in the community, was previously enrolled in MassHealth CarePlus.<sup>1</sup> In [REDACTED], the appellant turned age [REDACTED]. In August, 2023, the appellant filed a MassHealth application for individuals over age 65. The MassHealth representative stated that once the appellant's application was received, MassHealth, through its asset verification system, located four bank accounts the appellant owns at [REDACTED]. The amount in these accounts, when added, was equal to \$5,636.37. The MassHealth representative testified that in order to qualify for MassHealth Standard, the appellant's assets may not exceed \$2,000.00 (Testimony, Exh. 1).

The MassHealth representative stated that to re-establish eligibility for MassHealth, the appellant would need to produce updated bank statements for all four checking accounts, showing that total assets have been reduced to \$2,000.00 or less. She also indicated that the appellant's countable income is under the limits to receive MassHealth (Testimony).

The MassHealth representative testified that one of the appellant's bank accounts appears to be a business account. If that business is still operating, the appellant would need to produce a copy of his most recent I.R.S. Form 1040, showing any self-employment income he receives from this business (Testimony).

The appellant testified by telephone, with the assistance of his daughter, that he no longer operates a business. He stopped working approximately nineteen years ago, after sustaining an injury. He kept this business checking account open, and he did deposit some funds he received from family members into this account in order to pay off some debts. He stated that all of his accounts, when added, are now less than \$2,000.00 (Testimony).

At the close of the hearing, the hearing officer left the record of this appeal open until November 9, 2023 for the appellant to produce updated [REDACTED] statements for all four accounts for the month of September, 2023, reflecting that his assets have been reduced. The MassHealth representative also requested a copy of a signed, dated letter from the appellant attesting that he no longer operates a business, and when he stopped doing so; the hearing officer also left the record of this appeal open until November 9, 2023 for this letter to be submitted to MassHealth and to the hearing officer (Exh. 4). In addition, the hearing officer agreed to leave the appeal record open until November 16, 2023 for MassHealth to respond whether assets have been reduced, and if and when the appellant's MassHealth eligibility has been re-established (*Id.*).

The hearing officer received no further documentation from the appellant.

### **Findings of Fact**

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

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<sup>1</sup> The appellant's MassHealth CarePlus coverage terminated on September 27, 2023.

1. The appellant is age [REDACTED] not disabled, and lives in a household of one in the community (Testimony).
2. The appellant was previously enrolled in MassHealth CarePlus (Testimony).
3. In August, 2023, the appellant filed an application for community MassHealth benefits for persons over age 65 (Testimony).
4. MassHealth, through its asset verification system, located four checking accounts the appellant owns at [REDACTED] (*Id.*).
5. The amounts in these bank accounts, when added, totaled \$5,636.37 (Testimony, Exh. 1).
6. One of the appellant's bank accounts was a business account (Testimony).
7. The appellant testified that he no longer operates a business, but that he kept the associated checking account open (Testimony).
8. Through a notice dated September 22, 2023, MassHealth notified the appellant that he is not eligible for MassHealth due to excess assets (Exh. 1).
9. The appellant filed a timely appeal of this notice with the BOH on October 6, 2023 (Exh. 2).
10. At the close of the appeal hearing, the hearing officer left the record open until November 9, 2023 for the appellant to produce updated [REDACTED] statements for all four checking accounts for the month of September, 2023, reflecting that his assets have been reduced to \$2,000.00 or less, as well as a copy of a signed, dated letter attesting that he no longer operates a business, and when he closed the business (Exh. 4).
11. No documentation was received from the appellant.

### **Analysis and Conclusions of Law**

MassHealth regulation 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type.

130 CMR 505.001(A) notes in relevant part:

(A) The MassHealth coverage types are the following:

(1) Standard – for pregnant women, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals

with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);

(2) CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;

(3) CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;

(4) Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;

(5) Small Business Employee Premium Assistance – for adults or young adults who

(a) work for small employers;

(b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;

(c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and

(d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;

(6) Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and

(7) Senior Buy-In and Buy-In – for certain Medicare beneficiaries.

Pursuant to 130 CMR 519.005, “Community Residents 65 Years of Age or 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% 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.

(Emphasis added)<sup>2</sup>

Next, pursuant to 130 CMR 520.004, “Asset Reduction:”

(A) Criteria.

(1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or

(b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

(1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: Date of Application; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

...

Here, the appellant’s total bank account assets exceed the upper limit (\$2,000.00) for him to qualify for MassHealth in the community. In addition, one of the appellant’s bank accounts appears to be a business account. The appellant asserted that he no longer owns such a business.

Pursuant to 130 CMR 520.009(C)(1), “Countable-income Amount,” self-employment income is countable to the appellant in his eligibility determination, less the amount of any verified business expenses.

The hearing officer afforded the appellant additional time following the hearing to verify that he has spent down assets, and to provide a statement attesting to when he closed his business. Nothing was provided.

In the absence of any evidence to the contrary, the appellant remains ineligible for MassHealth in the community due to excess assets.

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<sup>2</sup> The provisions of 130 CMR 519.005(C) do not apply to the appellant.

There was no error in MassHealth decision's denying the appellant's senior application.

For these reasons, 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.

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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Sylvia Tiar, Appeals Coordinator, Tewksbury MEC