

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2309482
<b>Decision Date:</b>	12/22/2023	<b>Hearing Date:</b>	11/08/2023
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Michael Richelson – Tewksbury HCR



*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>	Approved	<b>Issue:</b>	Over-65; Eligibility; Income; MSP QMB
<b>Decision Date:</b>	12/22/2023	<b>Hearing Date:</b>	11/08/2023
<b>MassHealth's Rep.:</b>	Michael Richelson	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Telephonic	<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 September 19, 2023, MassHealth downgraded the appellant's coverage from the Medicare Savings Plan for Qualified Medicare Beneficiaries to the Medicare Savings Plan for Specified Low Income Medicare Beneficiaries based upon her income and denied her eligibility for MassHealth Standard. (Exhibit 1; 130 CMR 519.010.) The appellant filed this timely appeal on October 10, 2023. (Exhibit 2; 130 CMR 610.015(B).) Limitations on assistance are valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth downgraded the appellant's coverage, effective October 3, 2023, because the appellant's income was too high under older eligibility rules.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.010, in determining that the appellant's income was too high to qualify for the Medicare Savings Plan for Qualified Medicare Beneficiaries.

## Summary of Evidence

The appellant is over the age of 65, and she has a household of one. She receives monthly Social Security benefits in the amount of \$1,607 per month. The appellant has never had MassHealth Standard; she was approved for the Senior Buy-in benefit in October 2022. In August 2023, MassHealth mailed the appellant a renewal application, and the appellant completed the application on or around August 17, 2023. MassHealth's representative explained that the Senior Buy-in coverage is being converted to a new coverage called the Medicare Savings Plan ("MSP") for Qualified Medicare Beneficiaries ("QMB"). Like the Senior Buy-in coverage, the QMB coverage pays a member's Medicare Parts A and B premiums as well as all copays, deductibles, and co-insurance associated with Medicare Parts A and B. The Specified Low Income Medicare Beneficiaries ("SLMB") coverage only covers Medicare premiums.

With her appeal, the appellant submitted a letter explaining that she had made multiple attempts to contact MassHealth to understand why her benefits were being changed, but she was unable to connect with a person, despite leaving multiple messages. MassHealth's representative testified that there were errors in processing the appellant's renewal application, but the true problem was that she completed an application for comprehensive medical coverage, instead of a special application for MSP coverage.

The income and asset thresholds for coverage have been increased as part of the rebranding of Senior Buy-in coverage as MSP QMB coverage. While this change was undergoing, a special MSP application was needed to benefit from these higher income thresholds. The MSP QMB coverage is now available for individuals with income below 190% of the federal poverty level and assets below \$18,180, regardless of which application is used. However, at the time the appellant renewed her eligibility, there were still separate applications. The renewal application MassHealth mailed her was the application for MassHealth Standard. The appellant would only be eligible for MassHealth Standard if her income was at or below the federal poverty level. There is no dispute that the appellant's income and assets have always been below the thresholds for the MSP QMB benefit, the only issue is whether she completed the correct application.

MassHealth's representative testified that he could convert the appellant's application to an MSP application simply with a verbal request to do so. MassHealth converted the application during the hearing, and the appellant was approved for the MSP QMB coverage she had previously. However, because the QMB coverage can only be approved prospectively, MassHealth's representative testified that the coverage would restart as of December 1. The appellant was dismayed by this, because she had made multiple attempts to contact MassHealth to resolve this issue prior to the hearing, and her coverage never would have stopped if she had been able to get through. She further testified that she had always intended to continue the coverage she was in, and only completed the comprehensive application for MassHealth because that was the application MassHealth sent her to renew. The appellant had scheduled doctors' appointments in November that she would need to pay for out of pocket if she did not have the MSP QMB coverage.

## Findings of Fact

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

- 1) The appellant is over the age of 65, with a household of one. (Testimony by MassHealth's representative.)
- 2) The appellant's income is below 190% of the federal poverty level, and her assets are below \$18,180. (Testimony by MassHealth's representative.)
- 3) The appellant completed and returned the renewal application MassHealth sent her in a timely manner. (Testimony by MassHealth's representative.)
- 4) The appellant intended to continue receiving the same Senior Buy in coverage she had been receiving. She called MassHealth multiple times and would have converted her application to an MSP application if she had been able to get through to a representative and known that was required. (Testimony by the appellant.)

## Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. The requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

### 519.005: 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.

(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.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

Medicare recipients may qualify for a Medicare Savings Plan with income at or below 225% of the federal poverty level. (See 130 CMR 519.010-519.011 (Nov. 24, 2023); EOM 23-04 (Feb. 2023).) MassHealth refers to these benefits as “Buy-In” benefits, and the amount of assistance provided depends on the member’s income. The MSP QMB benefit requires “countable income ... 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.” (130 CMR 519.010(A)(2).) The “begin date for MSP [QMB] coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.” (130 CMR 519.010(C).)

A fair hearing decision must be based upon the evidence submitted during the hearing process, and “[t]he effective date of any adjustments to the appellant’s eligibility status is **the date on which all eligibility conditions were met**, regardless of when the supporting evidence was submitted.” (130 CMR 610.071(A)(2).) Here, the relevant “eligibility determination” was MassHealth’s September 19, 2023, notice downgrading the appellant’s coverage to MSP SLMB. The appellant was always financially eligible for the MSP QMB benefit. She should never have been downgraded to the MSP SLMB; therefore, his appeal is APPROVED. MassHealth shall reinstate her MSP QMB coverage without a gap.

If the appellant has been billed for out of pocket for Medicare Parts A and B copays, coinsurance, or deductibles, she should ask that her provider resubmit their bills after her coverage has been reinstated.

## Order for MassHealth

Reinstate the appellant’s MSP QMB without a gap in coverage.

## 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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

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