

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2309531
Decision Date:	12/12/2023	Hearing Date:	11/08/2023
Hearing Officer:	Patricia Mullen		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nicole Conrad, Taunton MEC



*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:	Eligibility
Decision Date:	12/12/2023	Hearing Date:	11/08/2023
MassHealth's Rep.:	Nicole Conrad, Taunton MEC	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center (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 October 5, 2023, MassHealth terminated the appellant's MassHealth Standard benefits because MassHealth determined that the appellant's income exceeds the limit for MassHealth Standard. (see 130 CMR 519.005; 520.003 and Exhibit 1). The appellant filed this appeal in a timely manner on October 11, 2023 and received aid pending appeal. (see 130 CMR 610.015(B) and Exhibit 2). Termination of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth Standard.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, in determining that the appellant's income exceeds the limit for MassHealth Standard.

Summary of Evidence

The appellant appeared telephonically and verified her identity. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton.

The MassHealth representative stated that the appellant is age 65 or older and lives in a one person household. The MassHealth representative noted that appellant was open on MassHealth Standard, as a disabled person under age 65, beginning in [REDACTED] and remained open on Standard during the Covid Public Health Emergency (PHE), during which time MassHealth was not reviewing cases nor terminating MassHealth benefits. The MassHealth representative stated that the appellant turned 65 during the PHE, however MassHealth protected the appellant's MassHealth Standard case for the remainder of the PHE period due to the prohibition of termination of benefits during the PHE. (Exhibit 5). The MassHealth representative stated that upon the termination of the PHE period, the appellant's case was reviewed. MassHealth received the appellant's review on June 6, 2023. (Testimony). The MassHealth representative stated that the appellant receives gross Social Security income of \$1,290.00 a month. Pursuant to MassHealth regulation, MassHealth deducted the regulatory allowance of \$20.00 from the unearned income to determine MassHealth countable income of \$1,270.00 a month. (Exhibit 1). The MassHealth representative stated that the income limit for MassHealth Standard for persons age 65 and older is 100% of the federal poverty level, or \$1,215.00 a month for a household of one. The MassHealth representative stated that because the appellant's income exceeds 100% of the federal poverty level, she was determined not financially eligible for MassHealth Standard. The October 5, 2023 notice sets forth the 6 month deductible calculation of \$4,484.00, which would need to be met before eligibility for MassHealth Standard could be established. (Exhibit 1).

The MassHealth representative noted that the appellant submitted verification of assets on October 10, 2023, after the October 5, 2023 MassHealth notice. The MassHealth representative stated that the appellant has no balance in her bank account, so MassHealth just put in \$1.00 to mark this account, and the appellant has a life insurance policy with a cash surrender value of \$2,475.00. The asset limit for MassHealth Standard for a household of one is \$2,000.00, thus the appellant's assets exceed the MassHealth limit by \$475.00. (Testimony). The MassHealth representative stated that once the appellant submits verification that her assets are at or below \$2,000.00, she would then need to meet the 6 month deductible before eligibility for MassHealth could be established. The MassHealth representative noted that the appellant could apply for a Home and Community Based Services waiver (also known as the Frail Elder Waiver) through her local elder services agency. The income limit for the waiver is 300% of the Federal Benefit Rate, or \$2,742.00 a month. The MassHealth representative stated that because the appellant is disabled, she could apply for CommonHealth for disabled working adults, if she worked at least 10 hours a week.

The appellant stated that she relinquished her life insurance and received the check a couple of weeks prior to the hearing. The appellant stated that she asked the life insurance company to fax the information to MassHealth. The appellant stated that she would re-send the life insurance

information to show that the policy was cashed out. The appellant noted that she would also contact her local elder services agency about an evaluation for the Frail Elder Waiver.

The MassHealth representative stated that MassHealth has not received the life insurance information yet. The MassHealth representative stated that she would contact the Hearing Officer once MassHealth received the life insurance information showing that the assets were now reduced. On November 7, 2023, the MassHealth representative informed the Hearing Officer that the only documents she received were a duplicate of the current cash surrender value of the policy and a copy of the appellant's life insurance enrollment letter. The MassHealth representative noted that she reached out the appellant the previous Monday and left a message regarding updated information on the policy. (Exhibit 7).

Findings of Fact

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

1. The appellants is age 65 or older and lives in a one person household.
2. In [REDACTED], the appellant was opened on MassHealth Standard for disabled persons under age 65, and remained open on this coverage during the PHE period, even after she turned 65.
3. MassHealth received the appellant's review on June 6, 2023.
4. The appellant receives gross Social Security income of \$1,290.00 a month.
5. 100% of the federal poverty level is \$1,215.00 a month for a household of one.
6. The appellant's countable assets total \$2,475.00.

Analysis and Conclusions of Law

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% 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)).

In addition to business expenses described at 130 CMR 520.010, the MassHealth agency allows the deductions listed below from the total gross unearned income. These deductions do not apply to the income of a community spouse described at 130 CMR 520.026(B). The deductions allowed from the total gross unearned income are the following:

(A) a deduction of \$20 per individual or married couple; ...

(130 CMR 520.013(A)).

The income limit for MassHealth Standard for persons age 65 and older is 100% of the federal poverty level, or \$1,215.00 a month for a household of two. The appellant has countable monthly income totaling \$1,270.00 (\$1,290.00 - \$20.00 regulatory deduction). The asset limit for MassHealth Standard for persons age 65 and older is \$2,000.00 for a one person household. The appellant has countable assets totaling \$2,475.00, which exceed the MassHealth limit of \$2,000.00 by \$475.00. A six month deductible would not be considered until the assets are reduced to the MassHealth limit. If the assets are reduced to \$2,000.00, the appellant would have a six month deductible of \$4,484.00 to be met every 6 months before eligibility for MassHealth could be established. (Exhibit 1; 130 CMR 520.028, 520.029, 520.030). The appellant is not financially eligible for MassHealth Standard. MassHealth's determination is upheld and the appeal is denied.

Order for MassHealth

Rescind aid pending and proceed with the action set forth in the notice dated October 5, 2023.

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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center