

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2309735
<b>Decision Date:</b>	1/8/2024	<b>Hearing Date:</b>	11/14/2023
<b>Hearing Officer:</b>	Casey Groff		

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

**Appearance for MassHealth:**  
Janine Monico, Tewksbury 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over 65; Income; Deductible
<b>Decision Date:</b>	1/8/2024	<b>Hearing Date:</b>	11/14/2023
<b>MassHealth's Rep.:</b>	Janine Monico	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	BOH – Tewksbury (Remote)	<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 9/26/23, MassHealth informed Appellant that she had more countable income than Standard or Limited benefits allowed and that she would establish eligibility by meeting a deductible of \$6,399. See Exh. 1 and 130 CMR §§ 520.002, 520.028. Appellant filed this appeal in a timely manner on 10/13/23. See Exh. 2 and 130 CMR 610.015(B). Denial of assistance and/or limiting the scope of assistance is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth determined that Appellant could establish eligibility for MassHealth between 06/01/2023 and 12/01/2023 if she met a deductible of \$6,399.

### Issue

The appeal issue is whether MassHealth was correct in determining Appellant exceeded the income limit to qualify for Standard or Limited and that she could establish a six-month period of eligibility if met a deductible of \$6,399.

### 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 a MassHealth benefit for individuals under the age of 65. When the PHE lifted in April 2023, the continuous coverage protection was no longer in effect, and Appellant was required to submit a senior MassHealth application. Appellant sent a completed senior application to MassHealth within the required timeframe, which showed that she received a social security benefit of \$1,608.90. See Exh. 1. After accounting for a \$20 unearned income disregard (UID), MassHealth calculated Appellant's total countable income as \$1,588.90 per month. Id. This places Appellant at 130.7% of the federal poverty level (FPL). To qualify for MassHealth Standard or Limited coverage, individuals aged 65 years and older must have income at or below 100% of the FPL, or \$1,215 per-month. On 9/22/23, MassHealth notified Appellant that her income exceeded the limit to qualify for MassHealth Standard or Limited, but that she did qualify for a "Buy-In" benefit that would help assist Appellant in paying the cost of certain Medicare premiums.

Additionally, on 9/26/23, MassHealth issued a notice to Appellant, informing her that while she did not meet income standards to qualify for Standard or Limited, she *could* establish eligibility for coverage by meeting a deductible. Id. Specifically, the notice stated the following:

We have made a change in your deductible amount because of an increase or decrease in your income or an increase in your assets...You have more countable income than MassHealth Standard or Limited benefits allow. You have a deductible of \$6,399. The deductible period is 06/01/2023 to 12/01/2023. If you meet your deductible, you may be able to get your benefits sending us bills for medical services you got before or during the deductible period...

Id.

Appellant filed a timely appeal of the 9/26/23 notice with the Board of Hearings (BOH) on 10/13/23. See Exh. 2.

The MassHealth representative confirmed that Appellant currently has senior buy-in as a qualified Medicare beneficiary (QMB), however her income prevents her from obtaining MassHealth as a supplemental insurance to Medicare. Because she exceeds the income limit to qualify, MassHealth calculated a deductible amount based on her income, which, if met, would make her temporarily eligible for MassHealth coverage for a six-month period. The deductible is met after the individual submits proof of incurred medical expenses (outstanding or paid) that equal or exceed the deductible amount.

Appellant appeared at the hearing by telephone and testified that she has had MassHealth for a long time and that she did not think it was fair that MassHealth is now lowering the income

threshold, making it more difficult to get benefits. Appellant testified that she would not be able to meet the deductible. Without MassHealth coverage, she will incur additional expenses that she cannot afford. Appellant noted that she pays for an emotional support animal and has other costs that should be considered for purposes of determining eligibility. Appellant did not dispute the social security benefit amount cited by MassHealth, but stated that it was the gross amount, not the amount she receives after deductions. Appellant argued that MassHealth was discriminating against seniors by setting different income eligibility thresholds than those imposed for non-seniors.

In response, the MassHealth representative clarified that the deductible is not a bill that Appellant has to pay; rather it represents the amount of unpaid medical expenses she would have to incur to establish eligibility to receive MassHealth coverage for the six-month period. The MassHealth representative also mentioned potential alternatives. For example, if Appellant required personal care attendant (PCA) services and has an evaluation with elder services to confirm this, she may qualify for a PCA disregard that would lower her countable income amount. Additionally, she could apply for MassHealth's CommonHealth program as she has a verified disability, or she could apply for the frail elder waiver.<sup>1</sup>

## **Findings of Fact**

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

1. Appellant is over the age of 65, lives in the community in a household size of one (1) and receives gross social security income of \$1,608.90 per month.
2. After applying a \$20 UID, Appellant has countable income of \$1,588.00.
3. To qualify for MassHealth Standard or Limited coverage, individuals over 65 years must have income at, or below, 100% of the FPL.
4. Appellant's income places her above 100% of the FPL.
5. On 9/26/23, MassHealth notified Appellant that she had more countable income than MassHealth regulations allow, and that he could establish a six-month period of eligibility by meeting a deductible of \$6,399.

## **Analysis and Conclusions of Law**

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<sup>1</sup> It was discussed that these options would require Appellant to complete an application and/or provide additional information so that MassHealth could assess whether Appellant met each program's respective eligibility criteria.

The issues on appeal are (1) whether MassHealth correctly determined that Appellant's countable income exceeds the program limit, and (2) whether MassHealth correctly determined that Appellant could establish a six-month period of eligibility by meeting a deductible of \$6,399.

To qualify for MassHealth Standard or Limited benefits, 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 regulations define "countable income" as the individual's gross earned and unearned income, less certain business expenses and "standard income deductions." See 130 CMR 520.009(A)(1). For unearned income, such as social security benefits, MassHealth applies a \$20 "unearned-income disregard" (UID), and, for certain qualifying individuals, a personal care attendant (PCA) deduction.<sup>2</sup> See 130 CMR §§ 520.013 and 520.009(D).

Here, it is undisputed that after applying the \$20 UID, Appellant has total income of \$1,588.00 per-month from social security. The monthly income for an individual at 100% of the FPL is \$1,215.<sup>3</sup> Appellant's income therefore exceeds the limit to qualify for MassHealth Standard or Limited.<sup>4</sup>

Individuals whose income exceeds 100% FPL limit, may, however, establish a six-month period of eligibility by meeting a deductible. See 130 CMR §§ 520.028, 520.029. A "deductible" is the "the total dollar amount of incurred medical expenses" that an applicant whose income exceeds MassHealth income standards must be responsible for before the applicant is eligible for MassHealth. See 130 CMR 515.001.

MassHealth calculates the deductible as follows:

520.030: Calculating the Deductible

The deductible is determined by multiplying the excess monthly income by six.

***Excess monthly income is the amount by which the applicant's countable-income***

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<sup>2</sup> The PCA deduction, which is fully set forth in 130 CMR 520.013(B) is a "deduction from gross unearned income is allowed only for persons who (a) are 65 years of age and older; (b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and (c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level. As discussed at hearing, Appellant had not yet undergone the initial screening to determine if she would qualify for the PCA deduction.

<sup>3</sup> See 2023 MassHealth Income Standards and Federal Poverty Guidelines.

<sup>4</sup> As noted at hearing, Appellant did qualify for MassHealth Buy-In to help cover certain Medicare costs. The only other coverage-type that Appellant may be eligible for is MassHealth CommonHealth which is intended for individuals, like Appellant, who have a verified disability and do not qualify for Standard. As discussed at hearing, however, MassHealth would need proof that Appellant meets the definition of a "working disabled adult" in accordance with 130 CMR §§ 519.012(A), 505.004(B)(2). See also MassHealth Eligibility Operations Memo 23-19 (August 2023). As there is no verification at this time to demonstrate Appellant meets the criteria of a "disabled working adult," MassHealth did not err in determining that the most comprehensive coverage type available to Appellant was Senior Buy-In. See 130 CMR 519.001(C).

***amount as described in 130 CMR 520.009 exceeds the MassHealth deductible-income standard.***

See 130 CMR 520.030 (emphasis added).

MassHealth's deductible monthly-income standard for a single community resident is \$522 per month. Id.

Taking Appellant's total countable income of \$1,588.90, MassHealth deducted the regulatory income standard of \$522, resulting in a "excess monthly income" or "monthly gross deductible amount" of \$1,066.90. See Exh. 1. Multiplying the monthly amount by six (6), MassHealth appropriately determined that Appellant had a total deductible of \$6,399 to establish eligibility for benefits between 6/1/23 and 12/1/23. Based on the evidence in the record, Appellant did not demonstrate that MassHealth erred in issuing the 9/26/23 notice. 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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Casey Groff  
Hearing Officer  
Board of Hearings

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