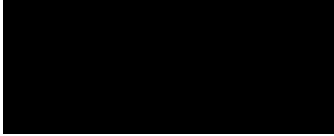


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2310050
<b>Decision Date:</b>	01/09/2024	<b>Hearing Date:</b>	11/24/2023
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Michael Richelson (Tewksbury MEC) *via*  
telephone



*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>	Community Over 65 – Downgrade – MassHealth Standard to Medicare Savings Program – Qualified Medicare Beneficiaries (MSP-QMB)
<b>Decision Date:</b>	01/09/2024	<b>Hearing Date:</b>	11/24/2023
<b>MassHealth’s Rep.:</b>	Michael Richelson	<b>Appellant’s Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center		

### 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 6, 2023, MassHealth informed the appellant that she was eligible for MassHealth “Senior Buy-In” benefits<sup>1</sup> based on her income and other factors. (See 130 CMR 519.010 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on October 19, 2023. (See 130 CMR 610.015(B) and Ex, 2). Any MassHealth action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. (See 130 CMR 610.032(A)(3)).

### Action Taken by MassHealth

MassHealth approved the appellant for MSP-QMB.

---

<sup>1</sup> Although the notice refers to the approved coverage as “Senior Buy-In,” on May 12, 2023 Senior Buy-In became MSP-QMB. (See 130 CMR 519.010). From this point forward this decision will use MSP-QMB.

## Issue

The primary appeal issue is whether MassHealth correctly determined that the appellant was only eligible for MSP-QMB and not for MassHealth Standard. A secondary issue is whether MassHealth correctly calculated the deductible.

## Summary of Evidence

The appellant is an individual living in the community who is over the age of 65. (Ex. 3). The appellant received MassHealth Standard with Medicare Buy-In from January 1, 2015 through September 21, 2023. (Ex. 3). The MassHealth representative stated that the appellant's income is \$1,247 from Social Security. (Ex. 1). The MassHealth representative stated that MassHealth subtracts \$20 in order to calculate the countable income. (Ex. 1). For that reason, MassHealth calculated that the appellant's countable income was \$1,227. The income limit for MassHealth Standard is \$1,215 for a one person household. The appellant was therefore over the income limit for MassHealth Standard.

The MassHealth representative stated that the appellant could become eligible for MassHealth Standard by meeting a deductible of \$4,230 during the six months from September 2023 through February 2024. (Ex. 1). This means that MassHealth Standard would not kick in until the appellant had accrued \$4,230 in unreimbursed medical expenses for those six months. The MassHealth representative suggested that the appellant could also become eligible for MassHealth Standard through a Frail Elder Waiver<sup>2</sup> or, if she requires a personal care attendant, through the PCA deduction<sup>3</sup>. The appellant may also become eligible in the future if she requires Long Term Care. In the meantime, through the MSP-QMB, MassHealth would pay for the appellant's Medicare Part A and Part B premiums and for deductibles and coinsurance for Medicare Part A and B. (See Ex. 1).

The appellant stated that she would not be able to pay the deductible because her medical expenses in a six month span did not come close to equaling the deductible. The appellant confirmed that since her new coverage became effective, Social Security no longer takes the cost of her Medicare out of her Social Security check.

## Findings of Fact

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

1. The appellant is an individual living in the community, who is over the age of 65. (Ex. 3).
2. The appellant received MassHealth Standard with Medicare Buy-In from January 1, 2015

---

<sup>2</sup> See 130 CMR 519.007(B) entitled Home- and Community-based Services Waiver - Frail Elder.

<sup>3</sup> See 130 CMR 520.013(B)(1).

through September 21, 2023. (Ex. 3).

3. The appellant's income is \$1,247 from Social Security. (Testimony of the MassHealth representative; Testimony of the appellant; Ex. 1).
4. In order to calculate the appellant's countable income, MassHealth subtracted \$20 from her gross income, which equaled \$1,227. (Testimony of the MassHealth representative; Ex. 1).
5. The income limit for MassHealth Standard for a household of one is \$1,215. (Testimony of the MassHealth representative).
6. The appellant could become eligible for MassHealth Standard by meeting a deductible of \$4,230 for the six month period between September 2023 and February 2024. (Testimony of the MassHealth representative; Ex. 1).
7. The appellant is eligible for MSP-QMB. (Testimony of the MassHealth representative; Ex. 1).
8. Under the MSP-QMB, MassHealth pays for the appellant's Medicare Part A and Part B premiums and for deductibles and coinsurance for Medicare Part A and B. (Testimony of the MassHealth representative; Ex. 1).

## Analysis and Conclusions of Law

An individual's countable income is the individual's gross earned and unearned income, less certain deductions. (130 CMR 520.009(A)(1)). The record shows that the appellant's income is \$1,247 per month from Social Security. Social Security is a type of unearned income in that it does not directly result from the appellant's own labor or services. (See 130 CMR 520.009(D)). MassHealth permits a deduction of \$20 to an individual's gross unearned income. (See 130 CMR 520.013(A)). The record shows that MassHealth did subtract \$20 from the appellant's unearned income of \$1,247 thereby concluding that the appellant's countable income was \$1,227.

In order to be eligible for MassHealth Standard, an individual living in the community who is 65 years of age and older and is not the parent or caretaker relative of a child under 19 must have countable income that does not exceed 100% of the federal poverty level.<sup>4</sup> (130 CMR 519.005(A)). The record shows that the appellant is an individual over the age of 65 living in the community. The record does not show that the appellant is currently the parent or caretaker relative of a child

---

<sup>4</sup> The rules also require that in order to be eligible for MassHealth Standard a member's countable assets must not exceed \$2,000. (130 CMR 519.005(A)). Since no evidence was placed before this hearing officer indicating the contrary, this hearing officer has chosen to presume that the appellant's countable assets do not exceed \$2,000.

under 19. In order to be eligible for MassHealth Standard, the appellant's countable income of \$1,227 per month would not be able to exceed 100% of the federal poverty level. As of the date of the hearing, 100% of the federal poverty level is \$1,215 per month.<sup>5</sup> The appellant is over that income limit and is not eligible for MassHealth Standard.

MSP-QMB is available to Medicare beneficiaries who are entitled to hospital benefits under Medicare Part A; and have a countable income amount that is less than or equal to 190% of the federal poverty level.<sup>6</sup> (130 CMR 519.010(A)). The record shows that the appellant is a Medicare beneficiary entitled to hospital benefits under Medicare Part A. The income limit for MSP-QMB (i.e. 190% of the federal poverty level) is \$2,309 per month for a household of one. As the appellant's income is below that threshold, MassHealth correctly determined that the appellant is eligible for MSP-QMB.

Community-based individuals whose countable income amount exceeds 100% of the federal poverty level may establish eligibility for MassHealth Standard by meeting a deductible. (130 CMR 520.028(B)). MassHealth determines the deductible by multiplying an individual's "excess monthly income" by six. (130 CMR 520.030). The excess monthly income is the amount by which the applicant's countable-income exceeds the deductible income standard, which is \$522 for a household of one. (*Id.*). Subtracting the deductible income standard of \$522 from the appellant's countable income of \$1,227 equals \$705. Multiplying that figure by six equals \$4,230, which is the deductible. MassHealth correctly calculated the deductible.

For the reasons stated above, however, the appeal is DENIED.

## Order for MassHealth

None.

---

<sup>5</sup> MassHealth recalculates this figure annually using a formula described at 130 CMR 520.009(B). The 2023 figures are available at <https://www.mass.gov/info-details/program-financial-guidelines-for-certain-masshealth-applicants-and-members> though these are likely to change in the near future.

<sup>6</sup> Although not the focus of this appeal, the rules also require that the Medicare beneficiary meet the universal requirements for MassHealth, which are described at 130 CMR 517.001 *et seq.*

## 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.

---

Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

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