

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; denied in part; remand	<b>Appeal Number:</b>	2310502
<b>Decision Date:</b>	1/11/2024	<b>Hearing Date:</b>	12/1/2023
<b>Hearing Officer:</b>	Cynthia Kopka		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Lindsey Carney, Tewksbury



*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 in part; denied in part; remand	<b>Issue:</b>	Eligibility, over 65, income
<b>Decision Date:</b>	1/11/2024	<b>Hearing Date:</b>	12/1/2023
<b>MassHealth's Rep.:</b>	Lindsey Carney	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	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

By notice dated October 17, 2023, MassHealth notified Appellant that it would terminate her coverage on October 31, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on October 27, 2023 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth notified Appellant that it would terminate her coverage on October 31, 2023.

### Issue

The appeal issue is whether MassHealth was correct in determining that Appellant does not qualify for MassHealth Standard due to income.

### Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of one and is over the age of 65. On May 24, 2023, Appellant submitted a renewal application. MassHealth processed the renewal and issued a request for information. On October 17, 2023, MassHealth notified Appellant that it would terminate her coverage on October 31, 2023. Appellant previously had MassHealth Standard, which had been protected throughout the public health emergency related to the Covid-19 pandemic.

MassHealth terminated Appellant's coverage due to her income. Appellant receives \$2,628.00 monthly from Social Security. Exhibit 1. Appellant's assets are within MassHealth's limit. The MassHealth representative explained to Appellant how she can apply for the Frail Elder Waiver or MassHealth's CommonHealth coverage.

Appellant appeared by phone and submitted documents in support of her appeal, including doctor's notes. Exhibit 4. Appellant testified that she received an increase from Social Security because she is a "special case." After receiving this increase, Appellant's Medicare premium went up and she was terminated from MassHealth. Appellant argued that this was unfair. Appellant is disabled and her treatments are very expensive. Appellant's doctors wrote notes in support of Appellant's need to continue coverage.

## **Findings of Fact**

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

1. Appellant is in a household of one and over the age of 65.
2. Appellant's monthly income is \$2,628.90.
3. In 2023, 100% of the monthly FPL for a household of one was \$1,215.
4. On October 17, 2023, MassHealth notified Appellant that it would terminate her coverage on October 31, 2023. Exhibit 1.
5. Appellant filed this appeal in a timely manner on October 27, 2023 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2.

## **Analysis and Conclusions of Law**

The regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over age 65. The type of coverage for which a person is eligible is based on the person's and the spouse's income, assets, and immigration status. 130 CMR 515.003(B).

Per 130 CMR 519.005(A), an individual would meet the requirements of MassHealth Standard coverage if

- (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.

An individual's countable income amount refers to the individual's gross earned and unearned income less certain business expenses and standard income deductions. 130 CMR 520.009. MassHealth allows a \$20 deduction per individual or couple from the member's total gross unearned income. 130 CMR 520.013(A). If an individual exceeds these standards, he or she may establish eligibility by meeting a deductible. 130 CMR 519.005(B).

Here, Appellant's monthly income is \$2,628. Less the \$20 deduction, Appellant's income is 215% of the FPL. This exceeds the qualifying limit of 100% for MassHealth Standard. In order to receive MassHealth Standard benefits, Appellant would have to qualify for a special circumstance such as the Frail Elder Waiver, which has an income limit of 300% of the FPL. See 130 CMR 519.007(B)(2)(b). As Appellant did not qualify for MassHealth Standard at the time the determination was made, this decision is denied in part.

Individuals not eligible for MassHealth Standard may still be eligible to have MassHealth pay the individual's Medicare premium if they qualify for a Medicaid Savings Program (MSP or Buy-in) plan. Effective November 24, 2023, MassHealth offers three MSP coverage types: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualifying Individuals (QI).

Under 130 CMR 519.011(B) (emphasis added):

(B) MSP for Qualifying Individuals (QI).

(1) Eligibility Requirements. MSP for Qualifying Individuals (QI) coverage is available to Medicare beneficiaries who

- (a) are entitled to hospital benefits under Medicare Part A;
- (b) have a **countable income amount (including the income of the spouse with whom he or she lives) that is greater than 210% of the federal poverty level and less than or equal to 225% of the federal poverty level;**
- (c) effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare &

Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and

(d) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000: *Health Care Reform: MassHealth: Universal Eligibility Requirements* or 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, as applicable.

(2) Benefits. The MassHealth agency pays the entire Medicare Part B premium, in accordance with section 1933 of the Social Security Act (42 U.S.C. § 1396u-3), for members who establish eligibility for MSP for QI coverage in accordance with 130 CMR 519.011(B).

Here, MassHealth determined on October 17, 2023 that Appellant did not qualify for MassHealth Standard or any of the MSP (Buy-in) options based on her income. However, MassHealth's MSP for QI became effective prior to the date of hearing. Given that Appellant's income is 215% of the FPL, she is within the income limit for MSP for QI. Accordingly, this appeal is approved in part and remanded back to MassHealth for a redetermination of Appellant's eligibility for QI based on the other eligibility factors.

## **Order for MassHealth**

Remove aid pending. Redetermine Appellant's eligibility for MSP for QI under 130 CMR 519.011(B).

## **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.

## **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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Cynthia Kopka  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290