

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2310825
Decision Date:	12/7/2023	Hearing Date:	12/04/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Leslie Garcia



*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; over 65
Decision Date:	12/7/2023	Hearing Date:	12/04/2023
MassHealth's Rep.:	Leslie Garcia	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	Aid Pending:	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 27, 2023, MassHealth notified the appellant that she is not eligible for MassHealth because she has more countable income and assets than MassHealth allows. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on November 2, 2023. (130 CMR 610.015; Exhibit 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that she is not eligible for MassHealth as she has more countable income and assets than MassHealth allows.

Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility for MassHealth.

Summary of Evidence

The appellant is over 65-years old, in a family group of 1 and has a gross monthly income of \$2,982. The income includes benefits from the Social Security Administration in the amount of \$470 and a private pension in the amount of \$2,512. In calculating the appellant's countable income, MassHealth applied a \$20 disregard providing the appellant with countable income of \$2,962. This gross monthly income places the appellant at 243.8% of the federal poverty level. The appellant also has countable assets totaling \$18,238. This places the appellant over the asset limit of \$2,000 by \$16,238. The notice indicates that the excess assets are funds in a bank account. The MassHealth representative testified that the agency also has records of two properties owned by the appellant, the first being her primary residence which is non-countable and the second is property at a separate address. The appellant testified that the second property was sold 4 years ago. The MassHealth representative responded that the agency needs to see records of the sale and what happened with proceeds from the sale to verify that they are no longer available to the appellant.

The MassHealth representative testified that to become eligible for MassHealth Standard, the appellant needs to spenddown excess assets of \$16,238 and meet a deductible in the amount of \$13,650. The deductible period is August 2023 to March 2024. The MassHealth representative also noted that the appellant could possibly be eligible for MassHealth Standard if she was approved for a frail-elder waiver (FEW).

Eligibility for a FEW involves certification by MassHealth or its agent that the individual needs nursing-facility services and can receive certain waiver services at home. The MassHealth representative noted that MassHealth did not have a record of the appellant being determined clinically eligible for a FEW.

The appellant did not challenge the information presented regarding the calculation of her income and assets. The appellant asked MassHealth to consider expenses such as a mortgage and medical history in determining eligibility. The appellant testified that she received disability payments through her employer for an injury that occurred while working but those payments stopped when she turned [REDACTED] years old. The MassHealth representative noted that the agency did not have records of a disability decision made by MassHealth or the Social Security Administration which are the two entities from which MassHealth can accept a disability determination. Additionally, the appellant is no longer receiving this supplement from the private insurer.

The MassHealth representative testified that records show a history of decisions regarding the appellant's eligibility for the Health Safety Net, rather than any type of MassHealth coverage, likely due to the calculation of the appellant's income and assets. The appellant is still eligible for the Health Safety Net if she meets a deductible. The Health Safety Net is a program that is available for services provided in certain hospitals and community health centers.

Findings of Fact

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

1. The appellant is over 65-years old.
2. The appellant's family group of one has a gross monthly income of \$2,982 through benefits from the Social Security Administration and a pension.
3. The countable income of the appellant's family group is equal to 243.8% of the federal poverty level.
4. The appellant has assets totaling at least \$18,238.
5. The appellant has not received certification that she needs nursing facility services and can receive certain services at home.
6. The appellant has to meet a deductible in the amount of \$13,650 to become income eligible for MassHealth Standard.

Analysis and Conclusions of Law

Financial eligibility for MassHealth is based on financial responsibility, countable income, and countable assets. (130 CMR 520.001). In determining eligibility for MassHealth, the total countable-income amount and countable assets of the individual is compared to an income standard and asset limit. (130 CMR 520.002(A)). An individual and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable income amount. (130 CMR 520.009(A)(1)). In determining gross monthly income, MassHealth multiplies the average weekly income by 4.333 unless the income is monthly. (130 CMR 520.009(A)(1)). For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility. (130 CMR 520.009(A)(2)).

The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. (130 CMR 520.009(A)(4)). These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. (130 CMR 520.009(A)(4)). MassHealth considers both earned income and unearned income as countable in determining eligibility. (130 CMR 520.009). The appellant only receives unearned income.

Unearned income includes, but is not limited to, social security benefits, railroad retirement

benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. (130 CMR 520.009(D)). The applicant or member must verify gross unearned income. (130 CMR 520.009(D)).

The appellant did not dispute that her family group of 1 has gross monthly unearned income of \$2,982 through benefits received from the Social Security Administration and a pension. MassHealth allows deductions for unearned income including an initial \$20 deduction which MassHealth applied in this case. (130 CMR 520.013(A)). Other deductions are only applied under certain circumstances which include receiving personal-care attendant services or being determined by MassHealth, through an initial screening or prior authorization, that such services are needed. (130 CMR 520.013(B)). The appellant did not indicate at the hearing or on the review form that she receives or is in need of personal care attendant services. MassHealth made the correct deductions to the appellant's income.

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals aged 65 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, 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.

As noted by the MassHealth representative at hearing, the appellant's monthly income of \$2,982 exceeds 100% of the federal-poverty level for a family of one. (130 CMR 520.000). Additionally, the appellant's countable assets are more than \$2,000. Therefore, the appellant is not eligible for MassHealth Standard.

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, meeting a deductible as described at 130 CMR 520.028 et seq., or both. (130 CMR 519.005(B)). MassHealth correctly determined that to become income eligible the appellant would have to meet a deductible in the amount of \$13,650 and reduce her assets. The appellant did not present any medical bills to meet this deductible. Additionally, the appellant did not present any evidence of reducing her assets or plans to do so.

MassHealth Buy-In coverage for Qualified Medicare Beneficiaries is available to Medicare beneficiaries who:

- (1) are entitled to hospital benefits under Medicare Part A;
- (2) are applying for only MSP benefits and not full Medicaid, and have a countable income

- amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% of the federal poverty level;
- (3) 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; and
 - (4) 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. (130 CMR 519.010(A)).

The appellant is not eligible for this program as her income is over 190% of the federal poverty level.

MassHealth Buy-In coverage for Specified Low Income Medicare Beneficiaries (SLMB) is available for Specified Low Income 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 they live) greater than 190% and less than or equal to 210% of the federal poverty level;
- (c) are applying only for MSP benefits, and have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers & Medicare and Medicaid Services. Each calendar year, the allowable asset limits will be made available on MassHealth's website; 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. (130 CMR 519.011(A)(1)).

The appellant is not eligible for this program as her income is over 210% of the federal poverty level.

MassHealth Buy-In coverage for Qualified Individuals 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) are applying only for MSP benefits, and 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,

- (d) the allowable asset limits will be made available on MassHealth's website; and meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000 or 130 CMR 517.000, as applicable. (130 CMR 519.011(B)(1)).

The appellant does not qualify for this program as her income is over 225% of the federal poverty level.

This appeal is denied as MassHealth correctly determined that the appellant is not eligible for MassHealth.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

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