

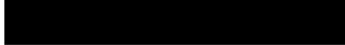
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311045
Decision Date:	01/11/2024	Hearing Date:	12/05/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearance for MassHealth:

Michael Richelson, 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

Appeal Decision:	Denied	Issue:	Excess Assets; Over 65
Decision Date:	01/11/2024	Hearing Date:	12/05/2023
MassHealth's Rep.:	Michael Richelson	Appellant's Rep.:	
Hearing Location:	Remote	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 October 17, 2023, MassHealth notified Appellant that she was eligible for Senior Buy In effective November 1, 2023, and that assets exceeded program limits for MassHealth coverage (130 CMR 520.003, 520.004 and Exhibit 1). Appellant filed this appeal in a timely manner on November 6, 2023 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant that she was eligible for Senior Buy In effective November 1, 2023, and that assets exceeded program limits for MassHealth coverage.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, 520.004 in determining that Appellant's assets exceed program limits.

Summary of Evidence

Appellant is over 65 years of age, disabled and lives in in the community in a household size of 1 person. The MassHealth representative testified that a Senior Application was submitted to MassHealth on July 21, 2023 (Exhibit 4).¹ The application was incomplete, and MassHealth issued requests for outstanding verifications on August 21, 2023 (Exhibit 5) and September 9, 2023 (Exhibit 6) seeking verification of life insurance cash value, bank account information, and securities information. MassHealth determined that assets exceeded program limits for MassHealth Standard coverage and issued notice informing her that she is eligible for MassHealth Senior Buy In effective November 1, 2023. MassHealth testified that Appellant's assets were initially calculated to total \$6,318 and included securities valued at \$3,563.45 which was corrected to \$1,206.45 based on additional verification submitted; a bank account totaling \$758.29; and life insurance cash value totaling \$1,996.26 (Exhibit 1). Appellant's representative submitted with the appeal request verification of the life insurance cash value at \$1,996.26 (Exhibit 2). MassHealth updated assets to include the verified cash surrender value and corrected the securities amount to \$1,206.50. MassHealth issued new notice dated December 5, 2023 identifying total assets of \$3,961.05, and an excess asset amount of \$1,961.05 (Exhibit 7).

Appellant's representative testified that Appellant has been receiving MassHealth Standard since July 2013 with no breaks in coverage until the Senior Application was submitted in July 2023 and her coverage terminated on August 11, 2023. Appellant's representative testified that Appellant is diagnosed with schizophrenia and is in the process of moving to a group home. He added that Appellant requires nursing services in the community which were authorized by MassHealth on October 25, 2023. He stated that he is in the process of changing ownership on the life insurance policy and securities to himself to bring assets within program limits and would submit verification to MassHealth when the asset spenddown is completed. Appellant's brother added that he has been Appellant's power of attorney since approximately 2013, and has always managed Appellant's MassHealth. Appellant's representative stated that he went into the Tewksbury MassHealth enrollment center in August 2023 and was reinstated as the Authorized Representative on August 23, 2023, and was told that social workers had assisted Appellant with the application to help her comply with due dates.

Findings of Fact

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

1. Appellant is over 65 years of age, disabled, and lives in the community in a household size of 1 person.

¹ MassHealth specified that the Senior Application submitted is not a renewal.

2. A Senior Application was submitted to MassHealth on July 21, 2023. The application was incomplete. MassHealth issued requests for outstanding verifications on August 21, 2023 and September 9, 2023 seeking verification of life insurance cash value, bank account information, and securities information.
3. By notice dated October 17, 2023, MassHealth determined that Appellant's assets exceeded program limits for MassHealth Standard coverage and issued notice informing her that she is eligible for MassHealth Senior Buy In.
4. Appellant's assets were initially calculated to total \$6,318 and included securities valued at \$3,563.45 which was corrected to \$1,206.45 based on additional verification submitted; a bank account totaling \$758.29; and life insurance cash value totaling \$1,996.26.
5. MassHealth issued new notice dated December 5, 2023 identifying total assets of \$3,961.05, and an excess asset amount of \$1,961.05.

Analysis and Conclusions of Law

130 CMR 519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C)², 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.

Pursuant to 130 CMR 520.003:

- (A) The total value of countable assets owned by or available to individuals applying

² This section applies to parents and caretaker relatives of children younger than 19 years old.

for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits:

- (1) for an individual — \$2,000; and
- (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

130 CMR 520.004(A): Asset Reduction

(A) Criteria.

- (1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth
 - (a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or
 - (b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.
- (2) In addition, the applicant must be otherwise eligible for MassHealth.

Appellant is over 65 years of age, disabled, and lives in the community in a household size of 1 person. Appellant submitted an incomplete Senior Application to MassHealth on July 21, 2023 which did not identify the cash surrender value of life insurance (Exhibit 4, p. 14). MassHealth issued requests for outstanding verifications on August 21, 2023 (Exhibit 5) and September 9, 2023 (Exhibit 6) seeking verification of life insurance cash value, bank account information, and securities information.³ By notice dated October 17, 2023, MassHealth determined that Appellant's assets exceeded \$2,000.⁴ Appellant's representative has provided all outstanding verification of Appellant's assets to MassHealth and is in the process of reducing assets to within program limits. MassHealth corrected the total amount of assets owned by Appellant, and issued a new appealable notice dated December 5, 2023 correctly identifying total assets of \$3,961.05, an excess asset amount of \$1,961.05, and informed Appellant that she may be eligible for MassHealth benefits based on the date of application if assets are reduced within 30 days of the notice (Exhibit 7). Because MassHealth correctly determined that Appellant's assets exceed \$2,000, the appeal is DENIED subject to the order below.

³ The MassHealth representative testified that the cash surrender value of the life insurance policy owned by Appellant had not been verified as of the October 17, 2023 notice; however, MassHealth correctly determined a cash surrender value of \$1,996.26 in the October 17, 2023 notice (Exhibit 1), which corresponds to verifications submitted by Appellant in a letter from the life insurance company dated September 22, 2023 showing a cash surrender value of \$1,996.26 (Exhibit 2, p. 9).

⁴ Medicare Savings Plans allow higher asset limits as specified at 130 CMR 519.010, 519.011.

Order for MassHealth

Allow Appellant 30 days from the date of this hearing decision to demonstrate that assets have been reduced to \$2,000 or less. If assets are reduced within 30 days of this hearing decision, preserve the July 21, 2023 application date and determine eligibility.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc:

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