

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2311165
Decision Date:	12/14/2023	Hearing Date:	11/20/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:  
Via telephone  
Pro se

Appearance for MassHealth:  
Via telephone  
Lindsey Carney



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>	Dismissed	<b>Issue:</b>	Eligibility; Over 65; Over income; Over asset
<b>Decision Date:</b>	12/14/2023	<b>Hearing Date:</b>	11/20/2023
<b>MassHealth's Rep.:</b>	Lindsey Carney	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 3 (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 October 27, 2023, MassHealth notified the Appellant that she was not eligible to receive MassHealth benefits because MassHealth determined that the Appellant was over the allowable income and asset limits. (130 CMR 520.002 - 520.004; 520.028; Exhibit 1). The Appellant filed this appeal in a timely manner on November 8, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the Appellant that she was not eligible to receive MassHealth benefits due to being over the allowable income and asset limits.

### Issue

The appeal issue is whether MassHealth was correct in denying the Appellant's request for

MassHealth benefits because she is over the allowable income and asset limits.

## Summary of Evidence

The MassHealth representative appeared at the hearing *via* telephone and testified as follows: MassHealth processed the Appellant's application in October of 2023 and subsequently requested additional information. MassHealth subsequently received the Appellant's additional information that was requested. On October 27, 2023, MassHealth determined that the Appellant was over the allowable income and asset limits to receive MassHealth Standard coverage. (Exhibit 1). With respect to income, the MassHealth representative explained that the Appellant's information on file includes social security in the gross amount of \$ 1,814.90 per month. (See, Exhibit 1, p. 3). Additionally, the Appellant reported a monthly earned income of \$ 1,274.07 per month. *Id.* Both amounts total a monthly income of \$ 3,088.97, however, the MassHealth representative explained that MassHealth only counted \$ 2,398.50 per month because the Appellant reported income disregards that were deducted. To qualify for MassHealth Standard benefits, the Appellant's income cannot exceed \$ 1,215.00 per month. Therefore, the Appellant is over the allowable income limit.

As to assets, the MassHealth representative explained that the Appellant's assets total \$ 25,544.05. *Id.* She further explained that the asset limit is \$ 2,000.00. Thus, the Appellant's assets are over the allowable limit by \$ 23,544.05. The MassHealth representative testified that the Appellant's assets are comprised of a combined amount of bank account balances.

The Appellant appeared at the hearing telephonically and expressed her appreciation for the option of holding a telephonic hearing. As to her income, the Appellant explained that she receives \$ 1,650.00 (after tax deductions) from social security. She began receiving social security in the late October/early November timeframe. From this total, the Appellant explained that \$ 164.90 is deducted for her Medicare premium, along with payments for utilities, mortgage, and gas expenses. She further explained the details of her employment and wages earned from said employment. The Appellant testified that she does not have enough money to live on after paying her expenses each month. She also testified that she began receiving MassHealth benefits approximately 3-4 years ago and never abused said benefits. The Appellant testified that she simply needs MassHealth coverage so that she can retain the \$ 164.90 premium that is deducted from her social security which would allow her to purchase food each month.

Upon inquiry, the MassHealth representative explained that the Appellant received MassHealth Standard coverage up until August of 2023. At that time, the Appellant's coverage was terminated because MassHealth did not receive her renewal application within the allowed time. MassHealth subsequently received the Appellant's renewal application which was processed and MassHealth determined that the Appellant was over the income and asset limits. The MassHealth representative explained to the Appellant that she would protect her MassHealth Standard

benefits up until November 10, 2023 so that allows the Appellant more time with coverage. In response, the Appellant explained that she understands the COVID protections that were implemented, however, her assets remained the same throughout the entire time that she received MassHealth Standard benefits and were never questioned, even prior to the implementation of COVID protections. The Appellant further explained that she recently began employment, though she was unemployed for the months of July and August.

Upon further inquiry, the MassHealth representative explained that the difference between the Appellant's current assets presently was due to one (1) bank account that was not reported in previous years. She explained that there are other options that may be available to assist the Appellant. The Appellant testified that the amount of money located in her checking account remained unchanged because she does not use it to pay for her expenses or otherwise treat it as monthly income. She inquired as to the reasoning why that amount is now counted as income. In response, the MassHealth representative explained that MassHealth counts income and assets when determining eligibility. She further explained that the Appellant's bank account in question is factored as a countable asset, regardless of whether the money is spent.

The MassHealth representative then made inquiry as to whether the Appellant has any disabilities. She explained that in doing so, she was attempting to ascertain if the Appellant qualifies for other assistance, such as MassHealth CommonHealth benefits. To qualify for such, adult members must have a verified disability or medical challenge and must be employed for at least 10 hours per month. The Appellant explained that the issue for her is the \$ 164.90 monthly deduction for her Medicare premium. The MassHealth representative testified that if the Appellant were to reduce her assets from \$ 25,544.05 to under \$ 18,180.00, she may qualify for Senior Buy-in benefits whereupon MassHealth would pay for the Appellant's Medicare Part B premium, and the Appellant could retain \$ 164.90 per month. The MassHealth representative explained that Senior Buy-in benefits are different from MassHealth Standard benefits. Specifically, Senior Buy-in benefits allow for up to \$ 18,180.00 in total assets. If the Appellant were to spend down her assets, the MassHealth representative suggested that she send MassHealth her updated bank statements.<sup>1</sup> The Appellant testified that option would assist her financially and she is willing to spend down her assets to qualify for Senior Buy-in benefits.<sup>2</sup>

## Findings of Fact

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

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<sup>1</sup> The MassHealth representative explained that in community cases, there is no limitation on the manner of spend-down, though if the Appellant were to spend down her assets on funeral costs, it would be counted as a permissible transfer should she need long-term care coverage in the future. With respect to submission of the Appellant's updated bank statements, the MassHealth representative suggested that she fax them to 1-857-323-8300 (Taunton office), along with her MassHealth ID number and a note explaining that she is updating her assets.

<sup>2</sup> The MassHealth representative testified that the Appellant's Medicare coverage would cover 80% of her health care costs and her secondary health care coverage should cover the remaining 20%.

1. The Appellant is over the age of 65. (Exhibit 3).
2. On October 27, 2023, MassHealth notified the Appellant that she was not eligible to receive MassHealth benefits due to being over the allowable income and asset limits. (Testimony; Exhibit 1).
3. The Appellant timely appealed on November 8, 2023. (Exhibit 2).
4. The Appellant can opt to reduce her assets to under \$ 18,180.00 to see if she qualifies for Senior Buy-in benefits. (Testimony).
5. Senior Buy-in benefits would pay for the cost of the Appellant's Medicare Part B monthly premium in the amount of \$ 164.90. (Testimony).
6. The Appellant's primary insurance covers 80% of the Appellant's health care costs. (Testimony).
7. The Appellant's secondary insurance should cover the remaining 20% of said costs. (Testimony).

## **Analysis and Conclusions of Law**

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the Appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes of members;
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;

- (6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;
- (7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;
- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;
- (9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;
- (10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or
- (11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

In the present case, the MassHealth representative testified that the Appellant is over the allowable income and asset limits to qualify for MassHealth Standard coverage. If the Appellant were to reduce her assets to under \$ 18,180.00, the Appellant may qualify for Senior Buy-in benefits. The Appellant testified that she is willing to reduce her assets and submit the pertinent bank statements to MassHealth showing spend-down. Because the appeal issue has been resolved in the Appellant's favor, there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed. Any subsequent MassHealth notices issued to the Appellant may be separately appealed.

## **Order for MassHealth**

Remove aid pending.

## **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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Kimberly Scanlon  
Hearing Officer

Board of Hearings

cc:

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