

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311226
Decision Date:	1/26/2024	Hearing Date:	11/28/2023
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nicole Conrad, Taunton 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:	Eligibility; Over 65; Community; Assets; MSP (Senior Buy-In)
Decision Date:	1/26/2024	Hearing Date:	11/28/2023
MassHealth's Rep.:	Nicole Conrad	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (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 letter dated 9/21/23, MassHealth informed Appellant that he did not qualify for MassHealth benefits and that his Senior Buy-In coverage would end on 10/31/23 because he had countable assets that exceeded the program limits. See Exh. 1, pp. 3-5 and 130 CMR §§ 520.003, 520.004. Appellant filed this appeal in a timely manner on 11/9/23. See id. pp. 1-2 and 130 CMR 610.015(B). Denial of assistance and/or termination of coverage are valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth benefits because it determined his countable assets exceeded program limits, and on this basis, terminated his Buy-In coverage on 10/31/23.

Issue

The appeal issue is whether MassHealth correctly terminated Appellant's MassHealth Buy-In benefit on the basis that his assets exceeded the program limit.

Summary of Evidence

Appellant is over the age of 65 and lives in the community in a household size of one. On 8/11/23, MassHealth received Appellant's senior renewal application for community benefits. At the time of his renewal, Appellant was enrolled in Senior Buy-In – a Medicare Savings Program (MSP) benefit through MassHealth. After receiving all requested verifications, MassHealth, through a letter dated 9/21/23, informed Appellant that he did not qualify for MassHealth benefits because his countable assets exceeded program limits and because of this, his Senior Buy-In benefit would end on 10/31/23. See Exh. 1, pp. 3-5.

The MassHealth representative testified that to be eligible for any of the MSP "Buy-In" programs, an individual must have countable assets at or below \$18,180. To qualify for MassHealth Standard or Limited benefits, the asset limit is \$2,000. During the renewal process, Appellant verified that he owned two bank accounts which held a combined total of \$26,344.86.¹ See id. Thus, Appellant exceeded the asset limit to qualify for Buy-In by \$8,164.86 and he exceeded the asset limit for Standard by \$24,344.86. See id.

Appellant appeared at the hearing by telephone and testified that he was opposing MassHealth's termination of his Buy-In benefit as he relies on the monthly savings it affords him. Appellant testified that due to his age, medical conditions, and mental illness, he is unable to obtain gainful employment. He is on a fixed income that he receives through social security. Now that his Medicare premium will be deducted from this income, he will suffer financial hardship. Appellant did not dispute that he owned the bank accounts in question. He testified that the combined total balance in the accounts is now \$25,032 as of the last statement. Appellant argued, however, that he relies on these funds – which is all he has for savings – for anticipated costs of living, including necessary home repairs and eventual car replacement. On this basis, he argued that the assets should not prevent him from obtaining MassHealth assistance.

In advance of the hearing, Appellant submitted two letters, signed and dated, from his cardiologist and clinical therapist providers, respectively. The letters confirmed that Appellant is actively receiving treatment for a heart condition and several mental health diagnoses; that he is managing these conditions with medications; and that his compliance with treatment has kept him stable. See Exhs. 2 and 3. At hearing, Appellant testified that any changes to his

¹ The two accounts were located within the same banking institution and held respective balances of \$5,431 and \$20,913.68, for a combined total asset amount of \$26,344.86.

insurance and ability to pay for medications could jeopardize his stability and the progress he has made. For these reasons, Appellant requested that his Buy-In benefit be reinstated.

Findings of Fact

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

1. Appellant is over the age of 65 and lives in the community in a household size of one.
2. On 8/11/23, MassHealth received Appellant's senior renewal application seeking continued enrollment in Senior Buy-In.
3. During the renewal process, Appellant provided verification to MassHealth showing that he owned two bank accounts which held a combined total of \$26,344.86.
4. Through a letter dated 9/21/23, MassHealth notified Appellant he did not qualify for MassHealth benefits because his countable assets exceeded program limits and because of this, his MSP Senior Buy-In benefit would end on 10/31/23.
5. At hearing, Appellant did not dispute that he owned the bank accounts and confirmed that, based on the most recent statements, the accounts held a combined total of \$25,032.

Analysis and Conclusions of Law

This appeal addresses whether MassHealth correctly determined that Appellant did not qualify for MassHealth benefits because his countable assets exceeded program limits. According to regulations governing the eligibility review process, MassHealth will determine the most comprehensive coverage-type that is available to the applicant. See 130 CMR 519.001(C). The MassHealth coverage types available to seniors, and other qualifying individuals, are listed as follows:

(B) MassHealth Coverage Types. The MassHealth coverage types available to individuals aged 65 and older, institutionalized individuals, and those who would be institutionalized without community-based services are the following:

- (1) MassHealth Standard;
- (2) MassHealth Limited;
- (3) Medicare Savings Programs (MSP) for Qualified Medicare Beneficiaries (QMB) (Buy-In);
- (4) Medicare Savings Programs (MSP) for Specified Low Income Medicare Beneficiaries and Qualifying Individuals (Buy-In);

- (5) MassHealth CommonHealth; and
- (6) MassHealth Family Assistance.

See 130 CMR 519.001(B).

To qualify for MassHealth Standard, Family Assistance or Limited, individuals 65 years of age or older who live in the community, such as Appellant, must have countable income at or below 100% of the federal poverty level (FPL) *and* have countable assets under \$2,000. See 130 CMR 519.005; see also 130 CMR 520.003(A)(1).

To qualify for a Medicare Savings Program (MSP), also referred to a “Buy-In” benefit, the applicant must have assets at or below \$18,180.² See 130 CMR 520.003(B); see also 130 CMR §§ 519.010 and 519.011; Eligibility Operations Memo 23-04, EOHHS- MassHealth (February 2023).

Countable assets are, by MassHealth definition, all assets that must be included in the determination of eligibility and include assets to which the applicant or member (or their spouse) would be entitled whether or not those assets are received. See 130 CMR 520.007. Examples of countable resources include funds held in a bank account, securities, stocks, among other assets that are owned and/or accessible to the applicant. See 130 CMR 520.007. MassHealth will exclude certain assets from determining an applicant’s eligibility as “non-countable” assets; however, such resources are limited to the individual’s primary home, business property, loans or grants, resources designated for funeral arrangements, veterans’ payments, certain types of trusts, and “assets that are deemed non-countable under Title XIX.” See 130 CMR 520.008.

In this case, MassHealth determined that Appellant did not qualify for MassHealth Standard or continued Buy-In because his countable assets exceeded the respective \$2,000 and \$18,180 limits. This determination was based on information Appellant disclosed to MassHealth showing that he owned two accounts that held a combined total of \$26,344.86. Accordingly, Appellant exceeded the asset limit for Standard and Limited by \$24,344.86 (see Exh. 1) and exceeded the asset limit for Buy-In by \$8,164.86. At hearing, Appellant did not dispute that he owned these accounts, but rather, argued that the funds are reserved for anticipated expenses that are necessary for living and home maintenance. While Appellant provided credible testimony regarding his circumstances and intended use of the assets he retains, there was no evidence provided to suggest the bank account funds could be considered “non-countable” under 130 CMR 520.008 or that the balances had been reduced to the allowable amounts. Because Appellant has full ownership and access to the resources in question, MassHealth did not err in determining Appellant was not financially eligible for MassHealth benefits pursuant to

² For married individuals, MassHealth sets forth different asset limits under its various coverage types, including Standard and Buy-In. See id.

its 9/21/23 notice. See 130 CMR 520.007. As such, MassHealth did not err in terminating Appellant's Buy-In benefit.

For these reasons, this appeal is DENIED.

Notably, MassHealth recently amended the regulatory provisions on asset limits for individual's applying for MSP Buy-In benefits. The updated regulations at 130 CMR §§ 519.010 and 519.011 (11/2023) reads that:

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

(emphasis added).

Therefore, Appellant may indeed become eligible for Buy-In on or after 3/1/24 when his assets will no longer be considered as a factor in determining eligibility and may re-apply accordingly. Because, however, the current MSP program asset limit, which was in effect at the time of the 9/21/23 notice, is effective through February 29, 2024, Appellant remains ineligible for benefits at this time. See id.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21
Spring St., Ste. 4, Taunton, MA 02780