

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311258
Decision Date:	01/26/2024	Hearing Date:	12/06/2023
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Michelle Trainor – Tewksbury Ongoing



*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:	Over-65; Community Eligibility; Income
Decision Date:	01/26/2024	Hearing Date:	12/06/2023
MassHealth's Rep.:	Michelle Trainor	Appellant's Rep.:	Pro se
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 September 28, 2023, MassHealth downgraded the appellant's benefits to the Medicare Savings Plan for Specified Low-Income Medicare Beneficiaries based upon the appellant's income, and on November 8, 2023, MassHealth upgraded the appellant's coverage to the Medicare Savings Plan for Qualified Medicare Beneficiaries. (Exhibits 1; 2; 130 CMR 519.002; 520.002.) The appellant filed this timely appeal on November 9, 2023. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth downgraded the appellant from MassHealth Standard to the Medicare Savings Plan for Specified Low-Income Medicare Beneficiaries. MassHealth later upgraded the appellant's coverage effective September 28, 2023, to the Medicare Savings Plan for Qualified Medicare Beneficiaries.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002, in determining that the appellant is not eligible for MassHealth Standard.

Summary of Evidence

The appellant filed an application with MassHealth's over-65 department on June 5, 2023. On June 7, MassHealth issued a notice requesting additional information verifying income and assets. The appellant supplied all necessary verifications and on September 28, 2023, MassHealth downgraded the appellant from MassHealth Standard to the Medicare Savings Program ("MSP") for Specified Low-Income Medicare Beneficiaries ("SLMB"). At the time the appellant appealed the downgrade to SLMB, MassHealth upgraded her coverage to the MSP for Qualified Medicare Beneficiaries ("QMB"), or Senior Buy In coverage. The appellant verified gross, monthly Social Security Retirement income in the amount of \$1,361.00, and she also verified annual employment income of \$12,007, which equates to \$1,000.58 per month.

MassHealth's representative testified that, combined, this income equates to 148.8% of the federal poverty level. She also testified that MassHealth had adjusted the income thresholds for its MSP programs, and that the MSP QMB benefit the appellant now covers her Medicare Part A and B premiums, copays, deductibles, and co-insurance costs. MassHealth Standard is only available for members over the age of 65 with income below 100% of the federal poverty level unless the member is disabled or would qualify for long-term-care assistance. MassHealth's representative confirmed that the appellant's assets were under the \$2,000 limit for MassHealth Standard.

The appellant testified that her work is not steady, and she may not work at all for weeks at a time. She also testified as to her living expenses, such as her rent of \$1,000 per month, and the fact that she had suffered a stroke and is concerned about her need for personal care assistance in the future. MassHealth's representative offered to mail out a disability supplement for the appellant to complete. If the appellant were deemed disabled, MassHealth could approve her for the CommonHealth benefit and assess her a monthly premium. However, the appellant's Social Security income alone was over the federal poverty level of \$1,215 per month. Therefore, she would not qualify for MassHealth Standard even if she stopped working.

Findings of Fact

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

- 1) The appellant is over the age of 65 and she has a household of one. (Testimony by MassHealth's representative.)
- 2) The appellant receives gross, monthly Social Security income in the amount of \$1,361.00. She earns \$1,000.58 per month on average from her employment. (Testimony by MassHealth's representative.)
- 3) The appellant's countable assets are below \$2,000. (Testimony by MassHealth's representative.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. One of the major dividing lines for eligibility is the age of 65. Individuals aged 65 and older are generally governed by the regulations at 130 CMR 515.000-520.000, and those under 65 are typically determined by the regulations at 130 CMR 501.000-508.000. The requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

519.005: Community Residents 65 Years of Age and Older

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

(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.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

A disabled adult aged 65 or older may qualify for CommonHealth coverage with income in exceeding the federal poverty level. However, CommonHealth coverage for individuals over 65 is only for "working disabled adults ... [which] means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3) and (5) to be eligible for CommonHealth." (130 CMR 519.012(A)(1).) Those additional criteria are:

- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;

(3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms;

... [and]

(5) be ineligible for MassHealth Standard

(130 CMR 505.004(B)(2), (3), (5).)

Medicare recipients may qualify for a Medicare Savings Program with income at or below 225% of the federal poverty level. (See 130 CMR 519.010-519.011.) MassHealth refers to these benefits as “Buy-In” benefits, and the amount of assistance provided depends on the member’s income. Individuals with income below 190% of the federal poverty level are eligible for the Medicare Savings Program (“MSP”) Qualified Medicare Beneficiaries (“QMB”). This benefit pays for “Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B” (130 CMR 519.010.)

The financial rules set out at 130 CMR 520.000 explain that all of an individual’s “gross earned and unearned income less certain business expenses and standard income deductions” is countable, and “the countable-income amount is compared to the applicable income standard to determine the individual’s financial eligibility.” (130 CMR 520.009(A)(1)-(2).) Weekly income is multiplied by 4.333 to determine monthly income. (130 CMR 520.009(A)(1).) There are only two income deductions for community residents with unearned income: (1) “a deduction of \$20 per individual or married couple” or (2) a larger deduction if the individual “requires assistance from a personal care attendant.” (130 CMR 520.013(A)-(B).) If the applicant’s income is over 133% of the federal poverty level prior to the PCA deduction, the applicant still receives a deductible. (130 CMR 520.013(C).) Earned income receives a deduction of \$65, and then only half of the remaining income is countable. (130 CMR 520.012.)

After the \$20 standard deduction, the appellant’s unearned monthly income is \$1,341.00. This is equivalent to 110% of the federal poverty level of \$1,215.¹ MassHealth also correctly calculated the appellant’s countable working income as \$467.50, deducting \$65 from \$1,000.58, and dividing by two.² The appellant’s total countable income of \$1,808.50 is equivalent to 148.9% of the federal poverty level. This income makes the appellant eligible for the MSP QMB benefit. MassHealth made no error in calculating the appellant’s eligibility, therefore this appeal is DENIED.

¹ The applicable federal poverty level data is published on MassHealth’s website. (See <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>; last visited January 24, 2024.)

² Technically, the countable employment income is \$467.79.

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.

Christopher Jones
Hearing Officer
Board of Hearings

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