

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Numbers:</b>	2311910 and 2312081
<b>Decision Date:</b>	1/29/2024	<b>Hearing Date:</b>	12/19/2023
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Dianne Braley, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility – 65 years of age and older
<b>Decision Date:</b>	1/29/2024	<b>Hearing Date:</b>	12/19/2023
<b>MassHealth's Rep.:</b>	Dianne Braley	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<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 11/03/2023, MassHealth informed the appellant that it decided he was not eligible for MassHealth Standard benefits because he had more countable income than MassHealth program limits allow. MassHealth informed the appellant he is eligible for MassHealth Buy-In benefits (see 130 CMR 520.001, 520.028, 520.003, 520.004 and Exhibit 1A). Through a notice dated 11/09/2023, MassHealth informed the appellant that his coverage was upgraded to Senior Buy-In benefits (see Exhibit 1B). The appellant filed timely appeals to both notices on 11/21/2023 and 11/24/2023, respectively (see 130 CMR 610.015(B) and Exhibits 2A and 2B). Denial of assistance and level of assistance are valid grounds for appeal (see 130 CMR 610.032).

The two appeals were consolidated because the applicable state or federal law is common to both cases and the issues of fact are common to both cases (see 130 CMR 610.073).

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits because his income exceeds the program limits.

## Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth Standard benefits because his income exceeds the program limits.

## Summary of Evidence

Exhibits 1A, 1B, 2A, 2B, and 3A and 3B were admitted into evidence. Parties participated in the fair hearing telephonically.

The MassHealth representative testified that the appellant is 65 years of age and he lives in the community. He is counted as a household of one for the purposes of MassHealth eligibility. Having recently turned ■ years of age, the appellant submitted a MassHealth application for senior benefits (SACA) on 10/23/2023. He was previously eligible for MassHealth Standard benefits as a disabled person, under the age of 65 with income below 133% of the federal poverty level.

The income limits change for the age 65 and over population. In order for an applicant to be eligible for MassHealth Standard benefits, s/he must have income below 100% of the federal poverty limit. The appellant's gross monthly income was verified to be \$1,634.00, which exceeds 100% of the federal poverty limit (\$1,215.00 per month for a household of one). Therefore, he is no longer eligible for MassHealth Standard benefits. His assets are below the program limit and he is eligible for MassHealth Senior Buy-In benefits, whereby MassHealth pays his Medicare premium.

The appellant can become eligible for MassHealth CommonHealth benefits based on his disability if he verifies that he is working at least 40 hours per month. Alternatively, he can meet a six-month deductible of \$6,552.00. The representative explained how that deductible was calculated and how it can be met with medical bills incurred or paid out of pocket.

The MassHealth representative also testified that the appellant may be able to submit a PCA waiver, which may reduce the deductible or a Frail Elder Waiver, which may make him eligible without meeting a deductible.

The appellant appeared at the fair hearing and testified that he is not able to work 40 hours per month. He stated he takes "11 pills per day." He is unable to walk to the doctors' appointments and he cannot drive.

## Findings of Fact

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

1. Appellant is ■ years of age and lives in the community. For the purposes of MassHealth eligibility, the appellant is a member of a household of one (Testimony).
2. Appellant's gross monthly income is \$1,634.00 per month. (Testimony).
3. 100% of the federal poverty level for a household of one is \$1,215.00 as of 03/2023.
4. Appellant has submitted no outstanding unpaid medical bills or medical bills he paid out of pocket (Testimony).
5. Appellant has assets below \$2,000.00 (Testimony).
6. On 11/03/2023, MassHealth informed the appellant that it decided he was not eligible for MassHealth benefits because he had more countable income than MassHealth benefits allow (Exhibit 1A; Testimony).
7. The appellant appealed the 11/03/2023 notice on 11/21/2023 (Exhibit 2A).
8. On 11/09/2023, MassHealth informed the appellant that it upgraded his benefits to Senior Buy-In benefits, effective 11/03/2023 (Exhibit 1B).
9. The appellant appealed the 11/09/2023 notice on 11/24/2023 (Exhibit 2B).
10. A fair hearing was held on 12/19/2023. The two appeals were consolidated and heard together. Both parties appeared telephonically (Exhibits 3A and 3B).
11. The appellant has been determined to be disabled by Social Security (Testimony).
12. The appellant is not working (Testimony).
13. The appellant does not have a PCA waiver or a Frail Elder Waiver in place (Testimony).

## **Analysis and Conclusions of Law**

MassHealth regulations at 130 CMR 519.005 address MassHealth eligibility requirements for community residents aged 65 and older as follows:

### **Community Residents 65 Years of Age or 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% 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.

**(Emphasis added.)**

**130 CMR 520.030: Calculating the Deductible**

The deductible is determined by multiplying the excess monthly income by six. Excess monthly income is the amount by which the applicant's countable-income amount as described in 130 CMR 520.009 exceeds the MassHealth deductible-income standard.

The appellant is [redacted] years of age and he lives in the community. His undisputed gross monthly income is \$1,634.00. The above regulation states that in order to be eligible for MassHealth Standard benefits as a member of the community who is 65 year of age or older, the gross monthly income must be less than 100% of the federal poverty level, or \$1,215.00 as of 03/2023. The appellant's countable income of \$1,634.00 exceeds the MassHealth's income limit of \$1,215.00 for a community applicant who is 65 years of age or older.

The regulations dictate that when an individual's monthly income is above 100% of the federal poverty limit, a deductible can be met for MassHealth eligibility. MassHealth calculated a deductible of \$6.552.00, calculated as follows:

Unearned income (Social Security)	\$1,634.00		
Disregard		- \$20.00	
			<b>\$1,614.00</b>
Earned Income			
Disregard			
Half of Countable Earned Income			

<b>Total Countable Income</b>			<b>\$1,614.00</b>
MassHealth Income Standard for a Household of One		-\$522.00	
Monthly Deductible			<b>\$1,092.00</b>
<b>Six Month Deductible (\$1,092.00 X 6)</b>			<b>\$6,552.00</b>

The appellant did not dispute the calculation of the deductible. Assets are not at issue in this appeal, since it is undisputed the appellant has assets below the guideline of \$2,000.00.

MassHealth correctly determined the appellant was over the income limit. It also correctly calculated the deductible to establish eligibility. To become eligible for MassHealth benefits, the appellant must submit verification to MassHealth of paid or unpaid medical bills (his responsibility) totaling \$6,552.00 incurred during the deductible period (10/2023 to 03/2024). This deductible must be met every six months.

Because the appellant was determined to be disabled by Social Security, he can become eligible for MassHealth CommonHealth benefits by working at least 40 hours per month. He has presented no evidence that he currently works. Therefore, he is not eligible for CommonHealth benefits at this time. Likewise, he has presented no evidence that he has pursued the PCA waiver or the Frail Elder Waiver. Accordingly, there is no evidence that the appellant is eligible for MassHealth CommonHealth or Standard benefits.

At the fair hearing, the appellant did not dispute his eligibility for Senior Buy-In benefits.

Appellant insisted he is not able to work. Moreover, he is unable to walk or drive. However, even as a person who has been determined to be disabled by Social Security, he must verify that he has met eligibility guidelines for someone who is over the income limit for MassHealth Standard. He has not done so. The evidence in the hearing record, as applied to the applicable regulations, supports MassHealth’s denial of his application for Standard benefits. As a result, this appeal is denied.

## 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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

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