

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2312202
Decision Date:	2/9/2024	Hearing Date:	12/20/2023
Hearing Officer:	Christopher Jones		

Appearance for Appellant:  
Pro se

Appearance for MassHealth:  
Pamela Filipe – Taunton 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Over 65; Community; Eligibility; Income
<b>Decision Date:</b>	2/9/2024	<b>Hearing Date:</b>	12/20/2023
<b>MassHealth's Rep.:</b>	Pamela Filipe	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Telephonic	<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 26, 2023, MassHealth downgraded the appellant's MassHealth benefits from MassHealth Standard to Senior Buy In. (Exhibit 1; 130 CMR 519.002; 519.010.) The appellant filed this appeal in a timely manner on November 19, 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's coverage to Senior Buy In (or the Medicare Savings Plan for Qualified Medicare Beneficiaries) because her income is over the federal poverty level.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, in determining that the appellant is ineligible for MassHealth Standard.

### Summary of Evidence

The appellant is over the age of 65 and has a household of one. She filed an annual renewal application with MassHealth and verified her income as \$1,248 per month from Social Security. MassHealth's representative explained that the federal poverty level is \$1,215 per month in gross

income, and that individuals over the age of 65 are only eligible for MassHealth Standard if their income is at or below the federal poverty level. The appellant testified that she is not disabled and does not currently need help in her home. The appellant was told that if she ever needs physical assistance in her home, she should update MassHealth as there are different income guidelines available for people who need help in their home or who are disabled.

MassHealth's representative explained that the appellant's coverage is through the Medicare Savings Plan ("MSP") for Qualified Medicare Beneficiaries ("QMB"), which will cover all of the premiums, co-pays, co-insurances, and deductibles for Medicare Parts A and B. The appellant would still need to enroll in coverage for prescriptions through Medicare Part D, and she was referred to a SHINE counselor for additional guidance regarding coordinating her Medicare coverage.

## Findings of Fact

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

- 1) The appellant is over the age of 65 and has a household of one. (Testimony by MassHealth's representative.)
- 2) The appellant receives monthly Social Security benefits in the amount of \$1,248 per month. (Testimony by MassHealth's representative.)
- 3) The appellant is not disabled, and she does not require a personal care attendant at this time. (Testimony by the appellant.)

## 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. 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 added).)

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).)

After the \$20 standard deduction from the appellant's unearned income, her countable monthly income is only \$1,228. This is equivalent to 101% of the federal poverty level, but that is sufficient to make her ineligible for MassHealth Standard. If she ever requires the assistance of a personal care attendant, she would be eligible for MassHealth Standard. However, at this time, MassHealth is correct that the appellant is ineligible for Standard coverage, and 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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Christopher Jones  
Hearing Officer  
Board of Hearings

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