

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2312282
Decision Date:	12/28/2023	Hearing Date:	12/26/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

Pro se

Appearance for MassHealth:

Via telephone:

Stephanie Colon, Tewksbury 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:	Approved in part; Denied in part	Issue:	Eligibility; Verifications; Income/Assets
Decision Date:	12/28/2023	Hearing Date:	12/26/2023
MassHealth's Rep.:	Stephanie Colon	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center 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 November 16, 2023, MassHealth determined that the appellant was not eligible for MassHealth benefits because she had more countable income and assets than MassHealth benefits allow (Exhibit 1). The appellant filed this appeal in a timely manner on November 30, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant MassHealth benefits.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant is not eligible for MassHealth benefits because she is over the allowable income and asset limits.

Summary of Evidence

Both the MassHealth representative and appellant appeared at hearing via telephone. The MassHealth representative testified as follows: on November 16, 2023, MassHealth issued a notice informing the appellant that she and her spouse were over the allowable income and asset limits to qualify for MassHealth benefits. This is the notice currently under appeal. For a couple over the age of 65, assets cannot exceed \$3,000 and income cannot exceed 100% of the Federal Poverty Level (FPL), which for a household of two is \$1,644 gross per month. The appellant and her spouse have \$21,459 in assets, which exceeds the asset limit by \$18,459. Their combined gross monthly income is \$4,251. They have both been deemed federally disabled and the MassHealth representative has mailed them templates of working letters for them to complete and submit to determine their eligibility for MassHealth CommonHealth coverage.

The appellant testified as follows: she did not appeal the over asset notice. She intended to appeal the notice dated October 3, 2023 which stated that her benefits would terminate on October 17, 2023 because she did not give MassHealth the information it needed to decide her eligibility within the required time frame.¹ The notice indicated that MassHealth still needed information on an insurance policy. She had sent all the information, including the requested insurance information, in August. Her return receipt from the post office (for which she supplied the tracking number and receipt confirmation) indicated MassHealth received it on August 14, 2023. She testified that on October 12, 2023, she spoke to MassHealth and the representative confirmed that it had the information needed and it should not have issued the termination notice because MassHealth had all the information requested. Based on that phone conversation, the appellant believed her insurance was all set. It wasn't until a phone call with MassHealth on November 14, 2023 that she learned her insurance had been terminated on October 17, 2023. She and her husband have been without coverage since then. Her husband has a \$650 dental bill for services on November 7, 2023 because they did not realize their insurance had been terminated.

The MassHealth representative responded that the appellant and her spouse had been on MassHealth CommonHealth from September 2018 through October 17, 2023. The appellant completed a renewal on June 6, 2023. The renewal indicated that the appellant had no income and was not working. MassHealth did not follow up on the appellant's CommonHealth benefits because a disabled adult over 65 needs to be working to be eligible for CommonHealth. On June 22, 2023, MassHealth issued a verification request. MassHealth received verifications on August 14, 2023 and processed them on August 26, 2023. Her records showed that a term life insurance policy was verified on August 26, 2023 and a whole life insurance policy was verified on November 14, 2023. The appellant explained that during her phone call with MassHealth on November 14, she was able go through the documents already submitted and processed by MassHealth and that whole life insurance information was in those documents.

¹ After hearing, the MassHealth representative mailed this hearing officer a copy of the October 3, 2023 notice.

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 size of two (Testimony and Exhibit 4).
2. On October 3, 2023, MassHealth notified the appellant that her coverage would terminate on October 17, 2023 because she did not give MassHealth the information it needed to decide her eligibility; MassHealth has confirmed that it received all required information in August 2023 (Testimony and Exhibit 5).
3. On November 16, 2023, MassHealth notified the appellant that she was not eligible for MassHealth benefits because she was over the income and asset limits (Testimony and Exhibit 1).
4. On November 30, 2023, the appellant appealed the November 16, 2023 notice (Testimony and Exhibit 2).
5. The appellant and her spouse have \$21,459 in assets, which exceeds the asset limit by \$18,459, and their combined gross monthly income is \$4,251 (Testimony).
6. To qualify for MassHealth Standard coverage, the appellant's income would have to be at or below 100% of the Federal Poverty Level, or \$1,644 monthly for a household of two, and their assets at or below \$3,000. (Testimony).
7. The appellant did not dispute their income or assets, but disagreed with the termination of their CommonHealth benefits on October 17, 2023 (Testimony).

Analysis and Conclusions of Law

Pursuant to 130 CMR 519.005, the following applies to MassHealth Standard coverage for 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.

To qualify for MassHealth Standard benefits, the countable income of a couple who is over the age of 65 must be equal to or less than 100% of the Federal Poverty Level, which for a household of two is \$1,644 monthly, and countable assets must be \$3,000 or less. The appellant's gross monthly income of \$4,251 and countable assets of \$21,459 are above the allowable limits to qualify for MassHealth Standard benefits. Therefore, MassHealth's determination in the November 16, 2023 notice regarding eligibility for MassHealth Standard benefits was correct and the appellant's appeal as to the November 16 notice is denied.

While the current appeal was filed on the November 16, 2023 notice informing the appellant that she was over income and assets to qualify for MassHealth benefits, based on testimony at hearing, the appellant intended to appeal the October 3, 2023 notice informing her that her benefits would terminate because she did not give MassHealth the information it needed to decide her eligibility. To address the termination of coverage on October 17, 2023 and the ensuing gap in coverage, it is necessary to establish jurisdiction over MassHealth's October 3, 2023 notice. Under 130 CMR 610.015(B)(1), the Board of Hearings must receive a request for a fair hearing within 60 days after an applicant or member receives written notice from MassHealth of the intended action. The appellant made a fair hearing request over the phone on November 30, 2023, which is within 60 days of the October 3, 2023 termination notice, making the appeal timely for that notice.

As such, the issue remaining is the termination of the appellant's MassHealth CommonHealth benefits on October 17, 2023 pursuant to the October 3, 2023 notice. MassHealth terminated her and her spouse's benefits because she did not submit the information MassHealth needed to decide her eligibility within the required time frame. The appellant argued that their coverage never should have been terminated because MassHealth had the information it requested since its receipt on August 14, 2023 and processing on August 26, 2023. The October termination notice stated MassHealth was missing information on a life insurance policy. Upon receipt of the October termination notice, the appellant called MassHealth on October 12, 2023 and the representative was able to confirm that it did indeed have that missing information in the documents that had already been sent in. The appellant testified that MassHealth informed her it had all the needed verifications and that notice should not have been sent. In a second phone call on November 14, 2023, the appellant again verified that insurance information had been received in August. I find the appellant's testimony credible and the termination notice for missing verifications incorrectly issued on October 3, 2023.

Pursuant to 130 CMR 516.006(B), MassHealth benefits terminate or downgrade no sooner than 14 days from the date of the termination or downgrade notice. Additionally, 130 CMR 516.008(B) states that the MassHealth agency provides members notice of any changes in coverage type or loss of coverage. According to the Fair Hearing rules at 130 CMR 610.071(A)(2), "[t]he effective date of any adjustments to the appellant's eligibility status will

be the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.” For these reasons, appeal is approved as to the October 3, 2023 notice. The appellant’s CommonHealth coverage should be reinstated retroactive to the date of termination, October 17, 2023 through November 30, 2023, fourteen days from the date MassHealth redetermined her eligibility based on the verifications received and notified her that she no longer qualifies for MassHealth benefits.²

Order for MassHealth

Rescind the notice dated October 3, 2023 and reinstate the appellant’s MassHealth CommonHealth benefits effective October 17, 2023 through November 30, 2023.³

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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

² The appellant and her spouse, who have both been deemed federally disabled, may be eligible for MassHealth CommonHealth going forward; however, MassHealth requires the working letters to make that determination, which is outside the scope of this appeal.

³ The appellant can ask her providers to resubmit to MassHealth any bills incurred during that period.