

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2312782
Decision Date:	2/29/2024	Hearing Date:	01/12/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sophia Beauport-Lafontant, Charlestown 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; Senior Buy-In; Medicare Savings Plan (MSP) Qualified Medicare Beneficiaries (QMB)
Decision Date:	2/29/2024	Hearing Date:	01/12/2024
MassHealth's Rep.:	Sophia Beauport- Lafontant	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	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 27, 2023, MassHealth determined that the Appellant is eligible for MassHealth Senior Buy-In benefits, effective December 1, 2023, and that the Appellant is not eligible for MassHealth Standard or Limited due to his income.¹ See 130 CMR 520.002, 130 CMR 520.028, and Exhibit 1. The Appellant filed this appeal in a timely manner on December 8, 2023. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

¹ The notice indicates that the Appellant has a deductible of \$8,883. It further states that "[t]he deductible period is 11/27/2023 to 06/01/2024. If you meet your deductible, you may be able to get your benefits by sending us bills for medical services you got before or during the deductible period." Exhibit 1 at 2.

Action Taken by MassHealth

MassHealth found that the Appellant was eligible for Senior Buy-In, and not eligible for MassHealth Standard or Limited due to his income.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is not eligible for MassHealth Standard or Limited due to his income.

Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified as follows: the Appellant is over the age of 65 and has a household size of one. The MassHealth representative testified that the Appellant's monthly income is \$2,041.90, which is Social Security income.² The MassHealth representative testified that to be eligible for MassHealth Standard, over the age of 65, an individual's monthly income must be 100% or less of the federal poverty level, which equals \$1,215 monthly. The MassHealth representative testified that the Appellant's income is 175% of the federal poverty level. The MassHealth representative explained that if the Appellant was assessed and found to qualify for the frail elder waiver, which has a higher income limit, he may be eligible for MassHealth Standard. The MassHealth representative testified that the Appellant was approved for Senior Buy-In, which will pay for the Appellant's Medicare Part A and B.

The Appellant verified his identity. He testified that he had been a MassHealth member since 2010 and had never had to reapply. He was concerned that starting in 2023, with the end of the public health emergency, MassHealth had ended coverage for seniors and that MassHealth sets the federal poverty level. He also stated that it does not make sense to follow a federal level, when it is more costly to live in Massachusetts, in comparison to other states. The Appellant testified that he had called MassHealth numerous times and spoken with sixteen different representatives. The Appellant testified that he has been fighting to get a needed dental crown. The Appellant testified that he has struggled to find affordable dental coverage. The Appellant agreed that his income is \$2,041.90 but thought his net income was only \$1,765. The Appellant also stated that he did not understand why MassHealth would pay for his Medicare.

Findings of Fact

² The MassHealth representative and the notice appealed do not provide information on whether the Appellant meets or exceeds the asset financial eligibility requirements for MassHealth Standard.

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

1. The Appellant is over the age of 65. Testimony and Exhibit 4.
2. The Appellant has a household size of one. Testimony.
3. The Appellant's monthly income is \$2,041.90. Testimony.
4. The Appellant is eligible for Senior Buy-In. Testimony and Exhibit 1.

Analysis and Conclusions of Law

In evaluating financial eligibility for MassHealth Standard, the regulations at 130 CMR 519.005 provide:

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C),³ 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.

130 CMR 519.005(A), (B).⁴

The MassHealth regulations at 130 CMR 501.001 define the federal poverty level as, "income standards issued annually in the *Federal Register* to account for the last calendar year's increase

³ 130 CMR 519.005(C) details the eligibility requirements for parents or caretaker relatives of a child younger than 19 years old.

⁴ The MassHealth regulations at 130 CMR 519.009(A)(1) state that MassHealth Limited is available to those who meet the financial and categorical requirements for MassHealth Standard.

in prices as measured by the Consumer Price Index.” For 2023, the *Federal Register* states that the federal poverty level for a household of one is \$1,215 monthly. See also 2023 MassHealth Income Standards & Federal Poverty Guidelines.⁵

Therefore, because there is no dispute that the Appellant’s income is \$2,041.90 monthly, which is greater than 100% of the federal poverty level or \$1,215, the Appellant is not financially eligible for MassHealth Standard unless he meets the deductible provided for in 130 CMR 519.005(B). 130 CMR 519.005(A)(1).

The Appellant’s arguments regarding Massachusetts’s higher living costs are noted. However, to the extent that these arguments pertain to the legality of the applicable regulations, it is beyond the scope of the hearing officer’s decision-making authority. MassHealth Fair Hearing regulations state, in pertinent part:

the hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency. Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

130 CMR 610.082(C)(2) (emphasis added).

There is no dispute that the Appellant’s income currently exceeds 100% of the federal poverty level. 130 CMR 519.005(A)(1). As such, unfortunately, the Appellant does not meet the financial requirements to qualify for MassHealth Standard or MassHealth Limited. 130 CMR 519.009(A)(1). Therefore, MassHealth did not err in issuing the November 27, 2023, notice, and the appeal is denied.

Regarding Senior Buy-In, and the Appellant’s questions about it, the regulations provide:

519.010: Medicare Savings Program (MSP) –Qualified Medicare Beneficiaries (QMB)

- (A) Eligibility Requirements. MSP (Buy-in) QMB coverage is available to Medicare beneficiaries who
- (1) are entitled to hospital benefits under Medicare Part A;
 - (2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% of the federal poverty level;
 - (3) Effective until February 29, 2024, have countable assets less than or equal to two times

⁵ This source is publicly available at: <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

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

(4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000 : Health Care Reform: MassHealth: Universal Eligibility Requirements or 130 CMR 517.000 : MassHealth: Universal Eligibility Requirements, as applicable.

(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B for members who establish eligibility for MSP coverage in accordance with 130 CMR 519.010(A).

(C) Begin Date. The begin date for MSP coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

130 CMR 519.010.

MassHealth determined that the Appellant is eligible for MSP-QMB, effective December 1, 2023, such that MassHealth "will pay [the Appellant's] Medicare Part A and Part B premiums, deductibles, and coinsurance." Exhibit 1 at 1. According to the notice, the Appellant's Medicare premium will no longer be deducted from his social security check, and so he may net more of his monthly \$2,041.90 social security income.

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.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129