

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Numbers:	2313228
Decision Date:	01/12/2024	Hearing Date:	1/9/2024
Hearing Officer:	Thomas J. Goode		

Appearances for Appellant:
Pro se

Appearance for MassHealth:
Michael Richelson, 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:	Denied	Issue:	Eligibility; Over 65
Decision Date:	01/12/2024	Hearing Date:	1/9/2024
MassHealth's Rep.:	Michael Richelson	Appellants' 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 notices dated November 20, 2023, MassHealth denied Appellants' applications for MassHealth benefits because MassHealth determined that assets exceed program limits (130 CMR 520.003, 520.004, 519.005 and Exhibit 1). Appellants filed appeals in a timely manner on December 20, 2023 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellants' applications for MassHealth benefits because MassHealth determined that assets exceed program limits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, 520.004, 519.005 in denying Appellants' MassHealth applications because assets exceed program limits.

Summary of Evidence

The MassHealth representative testified that Appellants, a married couple each over 65 years of age, completed MassHealth Senior Applications in July 2023. Appellants had been receiving MassHealth Standard coverage for members under 65 years of age which remained in effect due to pandemic protections. MassHealth determined Appellants' eligibility based on regulations applicable to members over 65 years of age. Appellants are a non-disabled married couple living in the community. Appellants' combined household income is \$3,407 monthly which exceeds 100% of the federal poverty level, \$1,644.¹ Appellants' assets total \$54,349.46 consisting of bank accounts, securities, and automobile value (Exhibit 1). Because assets exceed \$3,000, Appellants' MassHealth applications were denied. Appellants were approved for Health Safety Net with a deductible. The MassHealth representative reviewed disability status and eligibility for CommonHealth, Frail Elder Waiver, and PCA services.

Appellants confirmed assets and income and testified that their resources are intended for their retirement. Appellants testified to recent health issues involving a cancer diagnosis and upcoming surgery. Appellants added that their [REDACTED] son lives with them and has also been diagnosed with cancer. Appellants testified that without MassHealth coverage, they will be forced to spend assets on medical care, depleting retirement resources.

Findings of Fact

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

1. Appellants had been receiving MassHealth Standard coverage under regulations applicable to members under 65 years of age and coverage remained in effect due to pandemic protections.
2. Appellants are over 65 years of age and a non-disabled married couple living in the community.
3. Appellants' combined household income is \$3,407 monthly which exceeds 100% of the federal poverty level, \$1,644.
4. Appellants' assets total \$54,349.46 consisting of bank accounts, securities, and automobile value (Exhibit 1).

¹ MassHealth noted that the denial notices do not address household income.

Analysis and Conclusions of Law

130 CMR 519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C)², 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.³

Appellants are a married couple living in the community. Neither spouse has been determined to be disabled by MassHealth or Social Security. Appellants' assets exceed \$3,000.⁴ Appellants' assets also exceed current asset limits for Medicare Savings Programs (130 CMR 519.010, 519.011).⁵ Therefore, MassHealth correctly denied Appellants' MassHealth applications by notices dated November 20, 2023.

The appeal is DENIED.

Appellant can direct any questions about the Health Safety Net to 877-910-2100.

Order for MassHealth

None.

² This section applies to parents and caretaker relatives of children younger than 19 years old.

³ See also 130 CMR 520.003: Asset Limit (A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits: (1) for an individual — \$2,000; and (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

⁴ Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf (130 CMR 520.007).

⁵ Medicare Savings Plans (MSPs) are not insurance plans They are programs run by MassHealth that can help lower Medicare costs. For a married couple, asset limits are currently set at \$28,260. Effective March 1, 2024, MassHealth will disregard all assets in determining MSP eligibility; however, income limits for MSPs will apply.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Appeals Coordinator: Sylvia Tiar, Tewksbury MassHealth Enrollment Center