

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2313345
Decision Date:	1/31/2024	Hearing Date:	01/02/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Raybryana Dasher, 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

Appeal Decision:	Denied	Issue:	Eligibility; Over 65; Senior Buy-In; Medicare Savings Plan (MSP)—Qualified Medicare Beneficiaries (QMB)
Decision Date:	1/31/2024	Hearing Date:	01/02/2024
MassHealth's Rep.:	Raybryana Dasher	Appellant's Rep.:	Pro se
Hearing Location:	Taunton 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 December 8, 2023, MassHealth denied the Appellant's renewal application for MassHealth benefits because MassHealth determined that the Appellant had more countable assets than allowed (see 130 CMR 520.003, 130 CMR 520.004, and Exhibit 1). The Appellant filed this appeal in a timely manner on December 18, 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's renewal application for benefits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003 and 130 CMR 520.004, in determining that the appellant had more countable assets than allowed.

Summary of Evidence

The MassHealth representative appeared telephonically and testified as follows: the Appellant is a single individual over the age of 65. The MassHealth representative testified that to qualify for MassHealth Standard, for an individual over 65 living in the community, the member's income must not exceed 100% of the federal poverty level, and their countable assets must be \$2,000 or less. The MassHealth representative testified that the Appellant has \$98,844 in countable assets, which is \$96,844 more than the asset limit.¹ The MassHealth representative also testified that the Appellant does not qualify for Senior Buy-In/Medicare Savings Plan (MSP)—Qualified Medicare Beneficiaries (QMB), because the Appellant's assets are greater than \$18,180.

The Appellant verified his identity and testified that he wanted to plead his case. The Appellant testified that his assets are a stock account that he inherited when his father died two years ago, and that he will need to rely on that money to pay for his expenses for the rest of his life. He also testified that there would be tax penalties for withdrawing the funds in the stock account. The Appellant testified that he is injured and no longer able to work, and that his net income from Social Security has been reduced because he now must pay \$173 for Medicare monthly.

Findings of Fact

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

1. The Appellant is a single individual over the age of 65 living in the community (Testimony, Exhibits 1 & 4).
2. The Appellant has \$98,844 in countable assets (Testimony).

Analysis and Conclusions of Law

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

519.005: Community Residents 65 Years of Age and Older

¹ The MassHealth representative also testified that the Appellant's income was \$127 over the monthly limit, but that was not listed as a basis for denial in the appealed notice.

(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.

130 519.005(A), (B).

130 CMR 520.003(A)(1) provides that 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.” 130 CMR 520.003(A)(1). 130 CMR 520.004 provides:

520.004: Asset Reduction

(A) Criteria.

- (1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth
 - (a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or
 - (b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.
- (2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

- (1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: Date of Application; and
- (2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

130 CMR 520.004.

Regarding MSP-QMB, 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 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.

According to Eligibility Operations Memo 23-04 (February 2023), the 2023 asset limit for the MSP/Buy-in program is \$18,180 for an individual. EOM 23-04 (February 2023, Medicare Savings/Buy-In Programs).

MassHealth denied the Appellant's application for benefits because it determined that the Appellant's assets rendered him financially ineligible. The Appellant has countable assets of \$98,844. The asset limit for a single individual is \$2,000. 130 CMR 520.003(A)(1). The Appellant's countable assets exceeded the MassHealth limit of \$2,000 by \$96,844 and the Appellant is not financially eligible for MassHealth. Therefore, MassHealth did not err in denying the Appellant's request for MassHealth benefits. Accordingly, the appeal is denied insofar as the Appellant's assets still exceed the MassHealth limit.

The Appellant shall have 30 days from the date of this decision to submit proof of spend down of the excess assets to MassHealth. If the excess assets are spent down within 30 days of this decision, MassHealth shall reopen the Appellant's application.

Regarding Senior Buy-In/MSP-QMB, the Appellant's countable assets also exceed the 2023 asset limit of \$18,180. However, as provided in 130 CMR 519.010(A)(3), as of March 1, 2024, "MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits." 130 CMR 519.010(A)(3). Thus, after March 1, the Appellant may be eligible for MSP-QMB, wherein MassHealth pays for Medicare Parts A and B premiums, deductibles, and coinsurance, and so the Appellant is encouraged to re-apply at that time.

Order for MassHealth

The Appellant shall have 30 days from the date of this decision to spend down \$96,844 and submit proof of such to MassHealth. If the Appellant submits proof of spend down of assets to MassHealth within 30 days, MassHealth shall reopen his application and process it.

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: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616