

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2313484
Decision Date:	3/13/2024	Hearing Date:	01/18/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Janine Monico (Tewksbury MEC) *via telephone*



*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:	Community Over 65 Medicare Savings Program – Qualified Medicare Beneficiaries (MSP-QMB)
Decision Date:	3/13/2024	Hearing Date:	01/18/2024
MassHealth’s Rep.:	Janine Monico	Appellant’s Rep.:	<i>Pro se</i>
Hearing Location:	Tewksbury MassHealth Enrollment Center		

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 20, 2023, MassHealth informed the appellant that she was eligible for the MassHealth Senior Buy-In benefit¹ effective January 1, 2024 based on her income and assets. (See 130 CMR 519.010 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on December 21, 2023. (See 130 CMR 610.015(B) and Ex. 2). Individual MassHealth determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations) are valid grounds for appeal. (See 130 CMR 610.032(A)(5)).

¹ Although the notice refers to the approved coverage as “Senior Buy-In”, on May 12, 2023 Senior Buy-In became the Medicare Savings Program – Qualified Medicare Beneficiaries. (See 130 CMR 519.010). From this point forward this decision will refer to this benefit as the Medicare Savings Program – Qualified Medicare Beneficiaries or MSP-QMB.

Action Taken by MassHealth

MassHealth determined that the appellant was eligible for MassHealth Medicare Savings Program – Qualified Medicare Beneficiaries (MSP-QMB).

Issue

Whether MassHealth correctly determined that the appellant was only eligible for MSP-QMB and not for MassHealth Standard.

Summary of Evidence

A worker from the Tewksbury MassHealth Enrollment Center (MEC) represented MassHealth and the appellant represented herself. Both witnesses attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant submitted a renewal application on September 20, 2023, prior to her turning [REDACTED] in [REDACTED] 2023. (Testimony; Ex. 3). MassHealth issued a request for information on November 17, 2023, seeking verification of an identified bank account. (Testimony). The appellant submitted the requested bank verification on December 19, 2023. (Testimony).

According to MassHealth's information, the appellant is over both the income and asset limits and is not eligible to receive MassHealth Standard. (Testimony). The appellant is age 65 or older and lives in the community as a household of one. (Testimony). The appellant receives gross monthly unearned income of \$1,693 from Social Security. (Testimony). MassHealth applied the \$20 unearned income disregard to determine the appellant's countable monthly income, which is \$1,673. (Testimony). The appellant has one asset, her bank account, which contains \$2,377. (Testimony). The asset limit for MassHealth Standard for persons age 65 and older is \$2,000, which means the appellant is \$377 over that limit. (Testimony). On December 20, 2023, MassHealth issued the notice under appeal approving the appellant for MSP-QMB effective January 1, 2024, and denying MassHealth Standard. (Ex. 1; Testimony).

The MassHealth representative stated that the Social Security Administration has determined that the appellant is disabled and she may be able to establish eligibility for CommonHealth if she was determined to be a working disabled adult. (Testimony; Ex. 3). The MassHealth representative noted that the appellant could also become eligible for MassHealth Standard if, after reducing her assets to \$2,000 or below, she met a six month deductible, which MassHealth calculated was \$6,906.00 based on her income. (Testimony; Ex. 1). In order to meet the deductible, the appellant would need to submit medical bills that equal or exceed the deductible, every six months. (Testimony; Ex. 1). In order to be counted towards the deductible, those medical bills must not be subject to further payment from other health insurance or other liable third party coverage, including the Health Safety Net. (Testimony). The medical bills must also be for allowable medical

expenses, and must be unpaid and a current liability or, if paid, paid during the current six month deductible period. (Testimony). Any bill or portion of the bill that is used to meet the deductible would remain the appellant's responsibility. (Testimony).

The MassHealth representative confirmed that the appellant formerly received MassHealth Standard with a Buy-In as a disabled individual, under age 65, from December 1, 2018 through June 28, 2023. (Testimony; Ex. 3). The appellant subsequently received CommonHealth as a disabled non-working adult from June 2, 2023 through November 1, 2023. (Testimony; Ex. 3).

The appellant asked the MassHealth representative how much her income exceeded the income limit for MassHealth. The MassHealth representative stated that the income limit for a household of one was \$1,215 per month, or 100% of the federal poverty level (FPL). (Testimony). The MassHealth representative stated that the appellant's countable income was \$1,673 per month or 137.7% of the FPL. (Testimony). The appellant was \$458 over the income limit. (Testimony). The appellant expressed her disbelief that she could be kept out of MassHealth Standard for being only \$458 over the income limit. (Testimony). Despite this, however, the appellant indicated that she was interested in becoming eligible for CommonHealth. (Testimony). The MassHealth representative stated that the appellant could do so as a working disabled individual. The MassHealth representative provided a detailed explanation of what was necessary for her to do so. (Testimony).

Findings of Fact

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

1. The appellant submitted a renewal application on September 20, 2023, prior to her turning [REDACTED] in [REDACTED] 2023. (Testimony; Ex. 3).
2. MassHealth issued a request for information on November 17, 2023, seeking verification of an identified bank account. (Testimony).
3. The appellant submitted the requested bank verification on December 19, 2023. (Testimony).
4. According to MassHealth's information, the appellant is over both the income and asset limits and is not eligible to receive MassHealth Standard. (Testimony).
5. The appellant lives in the community as a household of one. (Testimony).
6. The appellant receives gross monthly income of \$1,693 from Social Security.
7. Because the appellant receives unearned income, MassHealth applied the \$20 unearned income disregard to determine the appellant's countable monthly income, which is \$1,673.

(Testimony).

8. The appellant's countable income is 137.7% of the FPL. (Testimony).
9. The appellant has one asset, her bank account, which contains \$2,377. (Testimony).
10. For a person living in a household of one who is over the age of 65, the income limit to receive MassHealth Standard is \$1,215 per month, which is 100% of the FPL. (Testimony).
11. For an individual over the age of 65, the asset limit for MassHealth is \$2,000, which means the appellant is \$377 over that limit. (Testimony).
12. On December 20, 2023, MassHealth issued the notice under appeal approving the appellant for MSP-QMB effective January 1, 2024. (Ex. 1; Testimony).

Analysis and Conclusions of Law

An individual's countable income is the individual's gross earned and unearned income, less certain deductions. (130 CMR 520.009(A)(1)). The record shows that the appellant's income is \$1,693 per month from Social Security. Social Security is a type of unearned income in that it does not directly result from the appellant's own labor or services. (See 130 CMR 520.009(D)). MassHealth permits a deduction of \$20 to an individual's gross unearned income. (See 130 CMR 520.013(A)). The record shows that MassHealth did subtract \$20 from the appellant's unearned income of \$1,693 thereby concluding that the appellant's countable income was \$1,673. The MassHealth representative stated that this places the appellant's income at 137.7% of the FPL for a household of one.

In order to be eligible for MassHealth Standard, an individual living in the community who is 65 years of age and older and is not the parent or caretaker relative of a child under 19 must have countable income that does not exceed 100% of the federal poverty level, which was \$1,215 per month for a household of one at the time of MassHealth's determination.² (130 CMR 519.005(A)). The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard may not exceed \$2,000. The record shows that the appellant is an individual over the age of 65 living in the community. The record shows that the appellant lives in a household of one, and therefore cannot be considered a parent or caretaker relative of a minor child. The record finally shows that the total value of the appellant's assets is \$2,377. This demonstrates that the appellant is over the income limit and asset limit and therefore is not financially eligible for MassHealth Standard.

² MassHealth recalculates this figure annually using a formula described at 130 CMR 520.009(B). The 2023 figures are presently still available at <https://www.mahealthconnector.org/help-center-answers/eligibility/federal-poverty-level-fpl>.

MSP-QMB is available to Medicare beneficiaries who are entitled to hospital benefits under Medicare Part A; have a countable income amount that is less than or equal to 190% of the federal poverty level; and (prior to March 1, 2024) have countable assets that are less than or equal to \$18,180.³ (130 CMR 519.010(A)). The record shows that the appellant is a Medicare beneficiary entitled to hospital benefits under Medicare Part A. The income limit for MSP-QMB (i.e. 190% of the federal poverty level) is \$2,309 per month for a household of one. The appellant's income is below that threshold, and the value of the appellant's assets, \$2,377, is below the asset limit. MassHealth correctly determined that the appellant is eligible for MSP-QMB.

For the reasons stated above, however, the 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

³ The Medicare beneficiary must also meet the universal requirements for MassHealth, which are described at 130 CMR 517.001 *et seq.* As it was not the focus of this hearing, it is presumed that the appellant does meet the universal requirements. Furthermore, as of March 1, 2024, assets are no longer considered for MSP eligibility.