

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



Appeal Decision:	Denied	Appeal Number:	2400702
Decision Date:	3/25/2024	Hearing Date:	02/07/2024
Hearing Officer:	Marc Tonaszuck		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Melissa Zarella, Springfield Ongoing Unit



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility – Age 65 and older; Traditional; Community
<b>Decision Date:</b>	3/25/2024	<b>Hearing Date:</b>	02/07/2024
<b>MassHealth's Rep.:</b>	Melissa Zarella	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<b>Aid Pending:</b>	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 01/03/2024, MassHealth informed the appellant that it decided he was not eligible for MassHealth Standard benefits because he had more countable income than MassHealth benefits allow. MassHealth informed the appellant that he was eligible for MassHealth Senior Buy In benefits and Health Safety Net (see 130 CMR 520.002, 520.028 and Exhibit 1). The appellant filed this appeal in a timely manner on 01/16/2024 (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 application for MassHealth benefits because his income exceeds the program limits.

### Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth benefits because his income exceeds the program limits.

## **Summary of Evidence**

Exhibits 1-3 were admitted into evidence. Parties participated in the fair hearing telephonically.

The MassHealth representative testified that the appellant is over 65 years of age and he lives in the community. He is counted as a household of one for the purposes of MassHealth eligibility. On 02/01/2024, the appellant's eligibility was reviewed by MassHealth. He has gross monthly income of \$1,486.00. MassHealth testified that the appellant's income is over 100% of the federal poverty level (\$1,215.00 for a family group of one as of 03/2023). As a result, his application for MassHealth benefits was denied. The appellant was determined to be eligible for Senior Buy-In benefits and Health Safety Net (Exhibit 1).

The MassHealth notice also states that the appellant may become eligible for MassHealth Standard benefits by meeting a deductible of \$5,664.00 for the deductible period of 01/03/2024 to 08/01/2024. The appellant can submit qualifying medical bills to MassHealth (paid out of pocket or incurred after payment by other insurance).

The appellant appeared at the hearing. He first requested a continuance. His request was denied by the hearing officer. Next, he argued that MassHealth is discriminating against him on the basis of his age. He is concerned that his dental benefits ended. He did not dispute the income that MassHealth has on file for him. He stated in his request for a fair hearing that he is "disabled" due to a "lost colon."

The MassHealth representative testified that the deductible can be reduced or eliminated if the appellant requires PCA services or if he is eligible for the frail elder waiver. Alternatively, if he works 50 hours per month, he can become eligible for MassHealth CommonHealth benefits as a working disabled adult. The appellant submitted no evidence to show that he has submitted a PCA supplement, a frail elder waiver, or that he works at least 40 hours per month.

## **Findings of Fact**

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

1. Appellant is over 65 years of age and lives in the community. For the purposes of MassHealth eligibility, the appellant is a member of a household of one (Testimony).
2. Appellant's gross monthly income is \$1,486.00 per month (Testimony).

3. 100% of the federal poverty level for a household of one is \$1,215.00 as of 03/2023.
4. Appellant has submitted no outstanding unpaid medical bills or medical bills he paid out of pocket (Testimony).
5. The appellant presented no evidence that he is working 40 hours per month.
6. The appellant presented no evidence that he submitted a PCA supplement to MassHealth.
7. The appellant presented no evidence that he applied for the frail elder waiver.
8. On 01/03/2024, MassHealth informed the appellant that it decided he was not eligible for MassHealth benefits because he had more countable income than MassHealth benefits allow (Exhibit 1; Testimony).
9. Through the 01/03/2024 notice, MassHealth informed the appellant that he is eligible for MassHealth Senior Buy-In benefits and Health Safety Net (Exhibit 1; Testimony).
10. The appellant did not dispute that he was eligible for MassHealth Senior Buy-In benefits or Health Safety Net.
11. The appellant filed this appeal in a timely manner on 01/16/2024 (Exhibit 2).
12. A fair hearing was held on 02/07/2024. Both parties appeared telephonically (Exhibit 3).

## **Analysis and Conclusions of Law**

MassHealth regulations at 130 CMR 519.005 address MassHealth eligibility requirements for community residents aged 65 and older as follows:

### **Community Residents 65 Years of Age or 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% 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 520.030: Calculating the Deductible**

The deductible is determined by multiplying the excess monthly income by six. Excess monthly income is the amount by which the applicant's countable-income amount as described in 130 CMR 520.009 exceeds the MassHealth deductible-income standard.

The appellant is over 65 years of age and he lives in the community. He did not dispute the income that MassHealth calculated. Appellant's gross monthly income is \$1,486.000 per month. The above regulation states that in order to be eligible for MassHealth Standard benefits as a member of the community who is over 65 year of age, the gross monthly income must be less than 100% of the federal poverty level, or \$1,215.00 as of 03/2023. The appellant's countable income of \$1,486.00 exceeds the MassHealth's income limit of \$1,215.00 for a community applicant who is over 65 year of age.

The regulations dictate that when an individual's monthly income is above 100% of the federal poverty limit, a deductible can be met for MassHealth eligibility. MassHealth calculated a deductible of \$5,664.00, calculated as follows:

Unearned income (Social Security)	\$1,486.00		
Disregard		- \$20.00	
			<b>\$1,466.00</b>
Earned Income	0		
Disregard		- 0	
			0
Half of Countable Earned Income			<b>\$0</b>
<b>Total Countable Income</b>			<b>\$1,466.00</b>
MassHealth Income Standard for Household of One		-\$522.00	
<b>Monthly Deductible</b>			<b>\$944.00</b>
<b>Six Month Deductible</b>			<b>\$5,664.00</b>

The appellant did not dispute the calculation of the deductible.

MassHealth correctly determined the appellant was over the income limit for MassHealth Standard eligibility. It also correctly calculated the deductible to establish eligibility. To become eligible for MassHealth benefits, the appellant must submit verification of paid or unpaid medical bills (his responsibility) totaling \$5,664.00 incurred during the deductible period. This deductible must be met every six months. Alternatively, to reduce or eliminate the deductible, the appellant may submit a PCA supplement, may apply for a frail elder waiver, and/or submit verification that he is working at least 40 hours per month.

Appellant requested a continuance at the beginning of the fair hearing. The hearing officer denied his request<sup>1</sup>. Next the appellant argued that MassHealth regulations are discriminatory on the basis of his age. This fair hearing decision is rendered based on the applicable law or regulation as interpreted by the MassHealth agency. 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.<sup>2</sup>

The issue appealed is whether the appellant's income exceeds the MassHealth guidelines for MassHealth Standard benefits eligibility. The appellant did not dispute his income, as calculated by MassHealth. The evidence in the hearing record, as applied to the applicable regulations, supports MassHealth's denial of his application for MassHealth Standard benefits. As a result, this 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.

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<sup>1</sup> See Fair Hearing Regulations at 130 CMR 610.048.

<sup>2</sup> See Fair Hearing Regulations at 130 CMR 610.082.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186