

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2400741
Decision Date:	3/21/2024	Hearing Date:	02/06/2024
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via Teams:

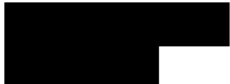
Pro se

Appearance for MassHealth:

Via Teams:

Palestrina Dessalines St. Fort, Taunton MEC

Interpreters:



*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; Income
Decision Date:	3/21/2024	Hearing Date:	02/06/2024
MassHealth's Rep.:	Palestrina Dessalines St. Fort	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center (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 a notice dated December 15, 2023, MassHealth informed the appellant that her MassHealth coverage would change from MassHealth Standard to the Senior Buy-In because her income was too high for MassHealth Standard (Exhibit 1). The appellant filed this appeal in a timely manner on January 16, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial and/or modification of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant MassHealth Standard benefits.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant is not eligible for MassHealth Standard benefits because she is over the allowable income limit.

Summary of Evidence

The MassHealth representative and the appellant appeared at hearing via telephone. The MassHealth representative testified as follows: the appellant is over the age of [REDACTED] with a household size of one. Pursuant to the December 15, 2023 notice, her coverage changed from MassHealth Standard to the Senior Buy-In effective December 29, 2023 because her income is too high to qualify for MassHealth Standard. This is the notice under appeal. The appellant has gross monthly income of \$1,762.99, comprised of \$1,698.70 from Social Security and \$64.29 from a pension. This puts her over the income limit to qualify for MassHealth Standard benefits. That income limit is 100% of the FPL, which for 2023 (when the MassHealth determination was made), was \$1,215 per month for a household of one. Her assets were under the \$2,000 asset limit.

MassHealth received the Personal Care Attendant (PCA) Supplement on October 25, 2023. The PCA disregard (\$1,094) was applied, which lowered the 6-month deductible the appellant would have to meet to become eligible for MassHealth Standard benefits. The deductible period is from October 2023 through March 2024 and if the deductible is met during that time, the appellant would be eligible for MassHealth Standard until the end of the deductible period. The appellant is federally disabled and eligible for MassHealth CommonHealth, but MassHealth would need a working letter. The appellant may also be eligible for the Frail Elder Waiver, but she would need to contact her local Elder Services.

The MassHealth representative explained that previously, the appellant had been on MassHealth Standard in the under-[REDACTED] system. The income limit for those under [REDACTED] is different than for those over [REDACTED]. Due to protections in place during the Public Health Emergency, the appellant remained on MassHealth Standard, despite being over the age of [REDACTED] and over the income limit. Once the Public Health Emergency ended, her information was updated and her eligibility was re-evaluated, resulting in the determination on December 15, 2023. The appellant's Senior Buy-In coverage started on October 1, 2023 and her Standard benefits ended on December 29, 2023.

The appellant testified that her actual income is \$1,520. She thought she filled out the waiver already. She is receiving dialysis and needs MassHealth Standard to help cover it. She did not think she could meet the requirements for the working letter required to qualify for MassHealth CommonHealth benefits.

The MassHealth representative stated that MassHealth had already mailed the Frail Elder Waiver application to the appellant, but had not received anything back. The most recent documentation received from the appellant was the PCA Supplement in October. The MassHealth representative explained the Frail Elder Waiver program and offered to send a new application in Spanish. The MassHealth representative also stated that MassHealth considers gross income, not net, and that MassHealth data-matched the appellant's Social Security income on January 16, 2024.

Findings of Fact

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

1. The appellant is over the age of ■■■, and has a household size of one (Testimony and Exhibit 4).
2. On December 15, 2023, MassHealth notified the appellant that her MassHealth benefits would change from MassHealth Standard to Senior Buy-In because her income was too high to qualify for MassHealth Standard (Testimony and Exhibit 1).
3. At the time of the notice, MassHealth determined the appellant's gross monthly income was \$1,762.99 and her assets were under \$2,000 (Testimony and Exhibit 1).
4. To qualify for MassHealth Standard coverage, the appellant's gross income would have to be at or below 100% of the Federal Poverty Level, or \$1,215 monthly for a household of one in 2023, and her assets at or below \$2,000 (Testimony).
5. On October 25, 2023, MassHealth received the PCA supplement which lowered the deductible the appellant would have to meet to become eligible for MassHealth Standard benefits (Testimony).
6. On January 16, 2024, the appellant timely appealed the December 15, 2023 notice (Exhibit 2).
7. The appellant's MassHealth Standard benefits terminated on December 29, 2023 (Testimony and Exhibit 1).
8. The appellant's MassHealth Senior Buy-In benefits went into effect on October 1, 2023 and are currently active (Testimony).

Analysis and Conclusions of Law

130 CMR 519.005 states the following for community residents 65 years of age and 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 percent 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.

(Emphasis added).

Additionally, MassHealth allows for certain deductions from total gross unearned income including the following found at 130 CMR 520.013(B):

(B) in determining eligibility for MassHealth Standard, a deduction that is equivalent to the difference between the applicable MassHealth deductible-income standard at 130 CMR 520.030 and 133% of the federal poverty level. This deduction includes, and is not in addition to, the \$20 disregard.

(1) This deduction from gross unearned income is allowed only for persons who

- (a) are 65 years of age and older;
- (b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and
- (c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level...

(3) If countable income, **prior to applying the deduction at 130 CMR 520.013(B), is greater than 133% of the federal poverty level,¹ eligibility is determined under 130 CMR 519.005(B): *Financial Standards Not Met.***

130 CMR 519.005(B) states the following where financial standards are 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.

As explained above, to qualify for MassHealth Standard benefits, the countable income of an individual who is over the age of ■ must be equal to or less than 100% of the Federal Poverty Level, which for a household of one was \$1,215 in 2023 (and is \$1,255 in 2024). The appellant's most recently verified gross monthly income is \$1,762.99 from Social Security and a pension, which is above the allowable limit to qualify for MassHealth Standard benefits. With the \$1,094.00 PCA disregard, her countable income is reduced for purposes of recalculating and lowering the

¹ In 2023, 133% of the Federal Poverty level for a household size one was \$1,616 and in 2024, \$1,670.

deductible the appellant can meet to qualify for MassHealth Standard; however, it does not qualify her for MassHealth Standard, pursuant to 130 CMR 520.013(B)(3) and 130 CMR 519.005(B). As such, MassHealth correctly determined that the appellant was over the income limit for MassHealth Standard. MassHealth correctly determined that the appellant qualifies for MassHealth Senior Buy-In benefits, but not MassHealth Standard benefits.²

For these reasons, the appeal is denied.³

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

² In the December 15, 2023 notice and in accordance with 130 CMR 520.030, MassHealth also correctly calculated the six-month deductible, which the appellant can meet to qualify for MassHealth Standard for the remainder of the 6-month deductible period.

³ As discussed at hearing, the appellant can follow through with the Frail Elder Waiver (and her local Elder Services) as a possible avenue to obtain MassHealth Standard coverage.