

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2400821
<b>Decision Date:</b>	3/21/2024	<b>Hearing Date:</b>	02/07/2024
<b>Hearing Officer:</b>	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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; over 65
<b>Decision Date:</b>	3/21/2024	<b>Hearing Date:</b>	02/07/2024
<b>MassHealth's Rep.:</b>	Michael Richelson	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<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 January 3, 2024, MassHealth approved Appellant for Senior Buy In and denied Appellant's application for MassHealth Standard benefits because MassHealth determined that Appellant's income exceeds the limit for MassHealth Standard. MassHealth determined that Appellant may be able to establish eligibility for MassHealth benefits by meeting a six-month deductible of \$1,122 (130 CMR 520.028 and Exhibit 1). Appellant filed this appeal in a timely manner on January 16, 2024 (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 Appellant's application for MassHealth Standard benefits and calculated a six-month deductible of \$1,122.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.028, in determining that Appellant's income exceeds the limit for MassHealth Standard for persons aged 65 and older.

## Summary of Evidence

The MassHealth representative testified that a renewal application was returned by Appellant on June 2, 2023. Appellant had been receiving MassHealth Standard coverage which was protected during the Public Health Emergency (PHE). Appellant's Social Security income prior to the PHE totaled \$891, which increased to \$1,861 on January 1, 2023. MassHealth issued a notice on January 3, 2024 informing Appellant that his income exceeds the limit for MassHealth Standard benefits, and that he was approved for MassHealth Senior Buy In (Exhibit 1). The MassHealth representative confirmed that Appellant is over the age of [REDACTED] and lives in a one-person household in the community and noted that the income limit for MassHealth Standard for persons aged [REDACTED] and older living in the community is 100% of the federal poverty level, \$1,215 a month for a household size of one.<sup>1</sup> Because Appellant's countable income exceeds \$1,215 a month, Appellant is not financially eligible for MassHealth Standard. MassHealth calculated a six-month deductible of \$1,122 (Exhibit 1). The MassHealth representative stated that Appellant filled out the supplemental form regarding his need for personal-care attendant ("PCA") services, and MassHealth applied a PCA disregard of \$1,094 in calculating the six-month deductible which must be met every 6 months before eligibility is established for Standard eligibility. MassHealth also reviewed eligibility and income requirements through the Frail Elder Waiver and provided contact information for Aging Services of North Central Massachusetts at 978-537-7411.

Appellant verified that his Social Security income is \$1,861 per month, and testified that it increased after his spouse passed away and he received her Social Security income. Appellant testified that he is disabled and blind and needs PCA services. Appellant added that he would inquire about the Frail Elder Waiver.

## Findings of Fact

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

1. Appellant is over age [REDACTED] and lives in a one-person household in the community.
2. On June 2, 2023, MassHealth received Appellant's renewal application for MassHealth Standard benefits. Appellant also completed a supplemental form regarding his need for PCA services. MassHealth allowed a \$1,094 PCA income disregard.
3. On January 3, 2024, MassHealth issued a notice to Appellant informing him that his income exceeded the eligibility limit for MassHealth Standard benefits, and that he could establish eligibility for MassHealth Standard benefits by meeting a six-month deductible of \$1,122.

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<sup>1</sup> This amount increased to \$1,255 in March 2024.

4. On the date of hearing, 100% of the federal poverty level was \$1,215 a month for a household size of one.<sup>2</sup>
5. On the date of hearing, 133% of the federal poverty level was \$1,616 a month for a household size of one.<sup>3</sup>
6. Appellant receives \$1,861 in gross monthly Social Security Income.

## Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 515.000 through 520.000 provide the requirements for MassHealth eligibility for persons who are 65 years of age or older (130 CMR 515.002). A non-institutionalized person aged 65 or older may establish eligibility for MassHealth Standard coverage if countable income is less than or equal to 100% of the federal poverty level of \$1,215 per month (130 CMR 519.005).<sup>4</sup> Appellant's gross unearned income totals \$1,861 per month. MassHealth allows a PCA deduction pursuant to 130 CMR 520.013(B) in determining countable income where an over 65 applicant is either "receiving personal-care attendant services paid for by the MassHealth agency, or [has] been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services" (130 CMR 520.013(B)). However, if the applicant's countable income exceeds 133% of the federal poverty level prior to applying the PCA disregard, then eligibility for MassHealth benefits must be established by meeting a six-month deductible as outlined below (130 CMR 520.013(B)(3); 130 CMR 520.028). Appellant's countable income before accounting for any PCA deduction is \$1,861 per month, which exceeds 133% of the federal poverty level in effect on the day of the hearing, or \$1,616 a month for a household of one. Thus Appellant is not financially eligible for MassHealth Standard for community residents, notwithstanding the PCA income deduction applied by MassHealth (130 CMR 520.012(B)(3)).

Therefore, MassHealth correctly determined that Appellant must meet a six-month deductible before MassHealth eligibility can be established (130 CMR 519.005(B); 130 CMR 520.028). Appellant's countable income for the deductible calculation is \$709, which MassHealth reached by subtracting the PCA disregard of \$1,094 from Appellant's gross unearned monthly income.<sup>5</sup> The MassHealth Income Standard applicable to an individual aged 65 or older residing in the community is \$522 per month for a household of one (130 CMR 520.030). The deductible is the total dollar amount of incurred medical expenses that an individual is responsible for before MassHealth eligibility is established (130 CMR 520.031). The deductible period is six months,

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<sup>2</sup> See fn. 1.

<sup>3</sup> Effective March 2024, 133% of the federal poverty for a household of one is \$1,670 per month.

<sup>4</sup> See fn. 1, currently \$1,255 per month.

<sup>5</sup> MassHealth calculated the deductible amounts using gross income of \$1,803, not \$1,861. The lower income figure is to Appellant's favor and is undisturbed by this hearing decision.

and the deductible is determined by multiplying the excess monthly income by 6 (130 CMR 520.029, 520.030). The excess monthly income is the amount by which Appellant's countable income exceeds the MassHealth Income Standard (130 CMR 520.030). In the present case, Appellant's countable income of \$709 as calculated above exceeds the MassHealth income standard of \$522 by \$187, which is multiplied by 6 to determine the six-month deductible of \$1,122 (Exhibit 1, p. 2). Accordingly, the MassHealth determination by notice dated January 3, 2024 is correct, and the appeal is DENIED.

For information about Frail Elder Waiver eligibility, Appellant can contact Aging Services of North Central Massachusetts at 978-537-7411.

## **Order for MassHealth**

Update Appellant's Social Security income. Recalculate the deductible amount and the deductible period using 2024 Federal Poverty Guidelines, and issue new notice.

## **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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

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