

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2400991
Decision Date:	3/18/2024	Hearing Date:	02/15/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nivdarla Anselme, Charlestown MassHealth
Enrollment Center



*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:	Over 65; Eligibility; Income
Decision Date:	3/18/2024	Hearing Date:	02/15/2024
MassHealth's Rep.:	Nivdarla Anselme	Appellant's Rep.:	Pro se
Hearing Location:	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 November 29, 2023, MassHealth downgraded the appellant's benefits from MassHealth Standard to the Medicare Savings Plan¹. Testimony. The appellant filed this appeal in a timely manner on January 19, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits and terminated his MassHealth Standard coverage.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant no longer qualifies for MassHealth Standard benefits.

¹ The notice reflects a program name of "Senior Buy-In," but that name has since changed. This decision will refer to the program by its current name, though the former name was used at hearing.

Summary of Evidence

The appellant is an adult over the age of [REDACTED]. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center (MEC) who also appeared telephonically. All parties appeared by telephone. The following is a summary of the testimony and evidence provided at hearing:

The MassHealth representative testified that the appellant submitted a renewal application for benefits on September 1, 2023. That application was fully processed on November 29, 2023, and the appellant's benefits were downgraded from MassHealth Standard to the Medicare Savings Plan due to the appellant's income being too high to qualify for Standard. At the time of hearing, MassHealth reported that the appellant and his spouse both receive Social Security benefits totaling \$1937.00 per month. When applying the \$20 unearned income regulatory disregard, the couple's monthly unearned income was calculated to be \$1917.00. MassHealth also verified earned income for the appellant in the amount of \$1841.52 per month.

The appellant reported that he agreed with the calculation of his and his spouse's monthly Social Security income and reported the loss of his working income. He argued that his status as a homeowner should earn him consideration over individuals living in public housing and that his living expenses should be taken into consideration in determining his eligibility.

Findings of Fact

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

1. The appellant is an adult over the age of [REDACTED] who resides in the community with his spouse. Exhibit 4, Testimony. He was receiving MassHealth Standard benefits prior to the issuance of the notice on appeal. *Id.*
2. On September 1, 2023, the appellant submitted a renewal application for MassHealth benefits. Testimony.
3. On November 29, 2023, MassHealth issue a notice determining that the appellant does not qualify for MassHealth Standard due to his income and placed him on the Medicare Savings Plan. Exhibit 1.
4. The appellant filed a timely request for fair hearing on January 19, 2023. Exhibit 2.
5. The appellant and his spouse receive monthly Social Security benefits totaling \$1937.00. Testimony.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old, he is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

To determine a senior's eligibility for MassHealth, the total countable-income amount and countable assets of the individual are compared to an income standard and asset limit. An individual who is eligible for Medicare Parts A and B must possess an income that is "less than or equal to 100% of the federal poverty level." 130 CMR 519.002(A)(4)(c). The current MassHealth federal poverty level standards can be found on its website, and 100% of the federal poverty level for a household of two is \$1644.00 in monthly income based on 2023 Income Standards and \$1704.00 based on 2024 Income Standards.²

In calculating the income of a senior applicant and their spouse, MassHealth applies the following relevant regulations:

(A) Overview.

- (1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.
- (4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such

² <https://www.mass.gov/doc/2023-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

(B) MassHealth Income Standards. Generally, financial eligibility is based on a percentage of the federal poverty level. The monthly federal poverty level standards are determined according to annual standards published in the Federal Register. The MassHealth agency adjusts these standards annually using the following formula.

- (1) Divide the annual federal poverty level income standard as it appears in the Federal Register by 12.
- (2) Multiply the unrounded monthly income standard by the applicable federal poverty level percentage.
- (3) Round up to the next whole dollar to arrive at the monthly income standards.

....

(D) Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. Unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: MassHealth Buy-In, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;
- (3) for rental income: a written statement from the tenant or a copy of the lease; or
- (4) other reliable evidence.

130 CMR 520.009. The current standard unearned-income deduction for an individual or married couple is \$20 per month. *See Id.* at 520.513(A). An appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon "evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency's interpretation of its rules, policies and regulations."

In this case, MassHealth determined, and the appellant agreed, that the appellant and his spouse receive \$1917.00 in total Social Security income. Although the appellant asserts that he no longer receives the additional \$1841.52 per month in wages, the couple's Social Security income exceeds 100% of the federal poverty level for a household of two based on both 2023 and 2024 Income Standards. The appellant therefore no longer qualifies for MassHealth Standard benefits. Thus, I find that MassHealth did not err in issuing the November 29, 2023, downgrading the appellant's benefits from MassHealth Standard to the Medicare Savings Plan.

To the extent that the appellant argues that the MassHealth regulations unfairly burden homeowners over those living in public housing, this fair hearing offers him no mechanism for a remedy, and the appellant should seek relief in the courts. See 130 CMR 610.082(C) ("If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency...[and] cannot rule on the legality of such law or regulation and [such a challenge] must be subject to judicial review in accordance with 130 CMR 610.092").

For the foregoing reasons, the appeal is hereby 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center