

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2401016
<b>Decision Date:</b>	02/27/2024	<b>Hearing Date:</b>	02/12/2024
<b>Hearing Officer:</b>	Radha Tilva		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Lindsay Marek, Springfield MEC Rep.



*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 - income
<b>Decision Date:</b>	02/27/2024	<b>Hearing Date:</b>	02/12/2024
<b>MassHealth's Rep.:</b>	Lindsay Marek	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<b>Aid Pending:</b>	Yes

### 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 8, 2024, MassHealth determined that appellant is no longer eligible for MassHealth Standard but is eligible for Senior Buy-In (Exhibit 1). The appellant filed this appeal in a timely manner on January 18, 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 downgraded appellant's MassHealth Standard benefits to MassHealth Senior Buy-In.

### Issue

The appeal issue is whether MassHealth was correct in terminating appellant's MassHealth Standard benefits and determining that he is eligible for MassHealth Senior Buy-In.

## Summary of Evidence

MassHealth was represented by a supervisor from the Springfield MassHealth Enrollment Center. The appellant represented himself at the hearing. Both parties appeared by telephone. At the hearing, the MassHealth representative testified that appellant turned [REDACTED] in [REDACTED] and that his income is now over the limits for MassHealth Standard benefits. The MassHealth representative stated that appellant presently had aid pending protection on his MassHealth Standard and Buy-In benefits and that his assets were not an issue. The MassHealth representative further stated that appellant has a household size of 2 with a gross monthly income of \$2,630.00 from Social Security which brings him at 160% of the federal poverty level. The income listed in the denial notice is equal to \$2,548.00 (Exhibit 1, p. 2). The income limit for MassHealth Standard benefits for a household size of 2 is \$1,644.00 a month or 100% of the federal poverty level (MassHealth testimony). The MassHealth representative explained that the Senior Buy-In benefits appellant for which he is eligible covers his Medicare Part B premium and coinsurance. The MassHealth representative further stated that there is a disability on file and provided three options for appellant to obtain eligibility for MassHealth benefits including providing a working disabled adult letter, applying for the Frail Elder Waiver program, or meeting a deductible in the amount of \$2,172.00 for a period of January 8, 2024 through August 1, 2024. The MassHealth representative testified that there was no record of return mail on file and confirmed that the notice at issue was mailed to the correct address.

The appellant testified that he did not have a copy of the notice or the file and that he needed that in order to present his case. In addition, appellant complained that he did not have any of MassHealth's submissions and he needed to know how MassHealth arrived at their conclusion. The hearing officer explained that he appealed the notice at issue and that he has the right to request a copy of his case file from MassHealth. The hearing officer also explained that there were no MassHealth submissions for this hearing and that the MassHealth case worker would explain the reason for the issued notice. The appellant asked for the record to remain open for him so that he would have time to get an attorney. At the end of the hearing, the hearing officer concluded that there was no reason to keep the record open as the appellant was not contesting the income.

The appellant also testified that MassHealth made incorrect statements and stated that his wife was disabled and that his three children had been taken away from them. The appellant stated that none of the information that the MassHealth representative provided was previously explained to him. The appellant further stated that the income guidelines are for healthy people and that he and his wife are both disabled and have a lot of legal expenses. With respect to the Frail Elder Waiver, which was explained to appellant at hearing, the appellant stated that he called his local elder services office approximately 20 times and they told him that they could not help him and he needs to go through Commonwealth Care Alliance. The appellant testified that he has filed complaints to the Executive Office of Elder Affairs. The appellant feels as though he has

exhausted all avenues and agencies. The appellant stated that he contributes to his children and has all kinds of out of his pocket expenses for them despite them not living with him. The appellant stated that he does not pay taxes on children. The appellant further stated that he is in the middle of the biggest case in Massachusetts history and that no trials or appeals attorney is helping him. The appellant made numerous other additional comments such as stating that the hearing officers “rubber stamp” MassHealth decisions and calling the hearing “a sham and kangaroo hearing.” The appellant spoke about many matters unrelated to the case.

## Findings of Fact

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

1. On January 8, 2024, MassHealth determined that appellant is no longer eligible for MassHealth Standard benefits, but is eligible for MassHealth Senior Buy-In.
  - a. A notice issued on that date and MassHealth has no record of return mail.
2. The appellant timely appealed that notice on January 18, 2024 and a hearing was scheduled for February 12, 2024.
3. The appellant had aid pending protecting his MassHealth Standard and Buy-In benefits through the pendency of this appeal.
4. The appellant turned [REDACTED] and has a household size of 2.
5. The appellant’s gross monthly income is approximately \$2,630.00 from Social Security.
  - a. Appellant is at 160% of the federal poverty level.
6. The MassHealth Standard income limit for a household size of 2 is 100% of the federal poverty level or \$1,644.00 a month.
7. The appellant has a disability on file, but there is no evidence that he is working.
8. The appellant has not applied for the Frail Elder Waiver program.
9. The appellant can meet a deductible of \$2,172.00 for a period of January 8, 2024 through August 1, 2024 to establish eligibility.

## Analysis and Conclusions of Law

The issue under appeal is whether MassHealth erred in downgrading appellant's benefits from MassHealth Standard to Senior Buy-In. The appellant contested that he did not receive the notice under appeal. His testimony that the notice was not received, however, is not credible given that he timely requested a hearing with the Board of Hearings. Furthermore, the MassHealth representative affirmed that there was no return mail following the issuance of the January 8, 2024 notice.

The appellant requested at the hearing that the record remain open as he wanted the opportunity to review his case file and time to get an attorney. It is within the hearing officer's discretion as to whether a record open is granted (130 CMR 610.004). Pursuant to 130 CMR 610.050(A), an appellant has a reasonable opportunity to examine the entire contents of their case file, as well as documents and records to be used by the MassHealth agency at the hearing. An appointment must be scheduled in advance with the appropriate MassHealth Enrollment Center (MEC) or MassHealth agency unit for examination of the case file pursuant to the regulation. Here, there is no record of the appellant scheduling such an appointment in advance to examine his case file. In addition, there is also no record of the appellant contacting the Board of Hearings prior to the hearing to have it rescheduled or evidence that he attempted to contact an attorney to assist him with this appeal. The appellant is not a stranger to the Board of Hearings process and he made that abundantly clear throughout the hearing. Thus, the request was denied.

With respect to the merits of the case, MassHealth determined that the appellant is no longer eligible for MassHealth Standard benefits as his income is higher than the MassHealth limit for a household size of 2. The testimony presented corroborates that the appellant's household consists of himself and his wife. The appellant's children no longer live with him. Pursuant to 130 CMR 519.005(A)(1), the income limit for a noninstitutionalized individual over the age of 65 in the community is 100% of the federal poverty level. 100% of the federal poverty level for a household size of 2 is \$1,644.00 a month.<sup>1</sup> Appellant's gross monthly income is 160% of the federal poverty level, or \$2,630.00 a month (MassHealth testimony). The appellant presented no evidence or testimony to dispute his income. As appellant's income is greater than 133% of the federal poverty level, eligibility is determined under 130 CMR 519.005(B) which explains that appellant can meet eligibility for MassHealth Standard if he meets a deductible as described under 130 CMR 520.028. The deductible as calculated by MassHealth is correct and equal to \$2,172.00 from January 8, 2024 through August 1, 2024. Thus, based on the above evidence, MassHealth did not err in determining that appellant is no longer eligible for MassHealth Standard benefits.

As fully explained at hearing, the appellant can establish eligibility by applying for, and being

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<sup>1</sup> [2023 MassHealth Income Standards and Federal Poverty Guidelines](#) (last visited February 26, 2024).

approved under, the Frail Elder Waiver program. Moreover, the appellant could be eligible for MassHealth CommonHealth if he is able to provide a working disabled adult letter and meet the criteria explained under 130 CMR 519.012(A).

With respect to MassHealth (MSP QMB) or Senior-Buy-In, MassHealth correctly determined that appellant is eligible as he has countable income that is less than or equal to 190% of the federal poverty level (130 CMR 519.010(A)). Based on the above analysis this appeal is DENIED.

## **Order for MassHealth**

Remove aid pending and proceed with termination of MassHealth Standard benefits.

## **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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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104