

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401495
Decision Date:	03/01/2024	Hearing Date:	02/26/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:  
Pro se

Appearance for MassHealth:  
Alyssa Smalley



*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
<b>Decision Date:</b>	03/01/2024	<b>Hearing Date:</b>	02/26/2024
<b>MassHealth's Rep.:</b>	Alyssa Smalley	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 December 15, 2023, MassHealth notified the appellant that she is eligible for MassHealth Senior Buy-In as she has more countable income than MassHealth Standard or Limited benefits allow. (130 CMR 519.000; 130 CMR 520.000; Exhibit 1). The appellant needs to meet a deductible in the amount of \$5,244 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on January 30, 2024. (130 CMR 610.015; Exhibit 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that she is eligible for MassHealth Senior Buy-In as she has more countable income than MassHealth Standard or Limited benefits allow. (130 CMR 519.000; 130 CMR 520.000).

### Issue

Whether MassHealth was correct in their decision regarding the appellant's eligibility for MassHealth Senior Buy-In.

## **Summary of Evidence**

The appellant is over 65-years old, in a family group of 1 and has a gross monthly income of \$1,416. The income includes benefits from the Social Security Administration. After applying a \$20 disregard, the appellant's countable income of \$1,396 places her at 115% of the federal poverty level. The MassHealth representative testified that to be eligible for MassHealth Standard a family group must have income at or below 100% of the federal poverty level. At the time of the eligibility decision, that income limit was \$1,215. The MassHealth representative testified that the appellant could become eligible for MassHealth Standard by meeting a deductible in the amount of \$5,244. The calculation of this deductible includes a standard deduction of \$522. The deductible period is November 1, 2023 to May 1, 2024.

The MassHealth representative testified that the appellant was eligible for MassHealth Standard in the past as she was under 65-years old and the income guidelines change once someone turns 65 because individuals have access to Medicare as a primary insurance. The MassHealth representative testified that the agency did not take action at the time that the appellant turned 65 due to the federal government issuing continuous coverage requirements to maintain care for both new MassHealth applicants and existing members during the COVID-19 Public Health Emergency (PHE). (MassHealth Eligibility Operations Memo 20-09; MassHealth EOM 23-13). These continuous coverage requirements ended on April 1, 2023 as the PHE was lifted. (MassHealth EOM 23-13). As of April 1, 2023, MassHealth began redetermining eligibility for all members to ensure that they still qualify for their current benefits and such action led to this new eligibility decision. (MassHealth EOM 23-13).

The MassHealth representative testified that the appellant may be eligible for MassHealth CommonHealth as a disabled adult if she can demonstrate to the agency that she works at least 40 hours each month. The MassHealth representative asked the appellant if she required services provided by a personal care attendant (PCA) as she may qualify for MassHealth under another program if she required such services. The appellant stated that she did not receive or require PCA services. The appellant testified that she is not working and cannot work due to her disability. The appellant testified that she cooks and bakes for others to brighten their day. The appellant did not provide any testimony regarding the consistency of such services or that they are done as something other than a type of gift.

The appellant presented documents that were incorporated into the hearing record as Exhibit 4. The documents were medical records. The MassHealth representative reviewed the documents and testified that the information in the records does not impact the eligibility decision on appeal which is based upon the appellant's income, not any medical diagnoses or decisions. The appellant did not dispute the income information presented by MassHealth.

## **Findings of Fact**

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

1. The appellant is over 65-years old.
2. The appellant is a family group of 1 with a gross monthly income of \$1,416.
3. The income includes benefits from the Social Security Administration.
4. After applying a \$20 disregard, the appellant's income is at 115% of the federal poverty level.
5. The appellant can become eligible for MassHealth Standard by meeting a deductible in the amount of \$5,244.
6. The deductible period is from November 1, 2023 to May 1, 2024.
7. The appellant was eligible for MassHealth Standard in the past.
8. The appellant has not received certification that she needs nursing facility services and can receive certain services at home.

## **Analysis and Conclusions of Law**

Financial eligibility for MassHealth is based on financial responsibility, countable income, and countable assets. (130 CMR 520.001). In determining eligibility for MassHealth, the total countable-income amount and countable assets of the individual is compared to an income standard and asset limit. (130 CMR 520.002(A)). An individual 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. (130 CMR 520.009(A)(1)). In determining gross monthly income, MassHealth multiplies the average weekly income by 4.333 unless the income is monthly. (130 CMR 520.009(A)(1)). For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility. (130 CMR 520.009(A)(2)).

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. (130 CMR 520.009(A)(4)). 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. (130 CMR 520.009(A)(4)).

MassHealth considers both earned income and unearned income as countable in determining eligibility. (130 CMR 520.009). The appellant only receives unearned income.

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. (130 CMR 520.009(D)). The applicant or member must verify gross unearned income. (130 CMR 520.009(D)).

The appellant did not dispute that her family group of 1 has a gross monthly unearned income of \$1,416 through benefits received from the Social Security Administration. MassHealth allows deductions for unearned income but only under certain circumstances which include receiving personal-care attendant services or being determined by MassHealth, through an initial screening or prior authorization, that such services are needed. (130 CMR 520.013). The appellant did not indicate at the hearing or on the review form that she receives or is in need of personal care attendant services. In fact, the appellant specifically stated that she does not need such services.

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals aged 65 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, 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.

As noted by the MassHealth representative at hearing, the agency allows a \$20 disregard in determining eligibility for members over 65 and with the application of this disregard, the appellant's countable income of \$1,396 exceeds 100% of the federal-poverty level for a family of one. (130 CMR 520.000). Therefore, the appellant is not eligible for MassHealth Standard.

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, meeting a deductible as described at 130 CMR 520.028 et seq., or both. (130 CMR 519.005(B)). MassHealth correctly determined that to become eligible the appellant would have to meet a deductible in the amount of \$5,244.

Pursuant to 30 CMR 519.010(A), MassHealth Buy-In for Qualified Medicare Beneficiaries (QMB) coverage is available to Medicare beneficiaries who:

- (1) are entitled to hospital benefits under Medicare Part A;

- (2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% of the federal poverty level;
- (3) Effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website. Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and
- (4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000 : Health Care Reform: MassHealth: Universal Eligibility Requirements or 130 CMR 517.000 : MassHealth: Universal Eligibility Requirements, as applicable.

MassHealth was correct in determining that the appellant is eligible for the MassHealth Buy-In for Qualified Medicare Beneficiaries (QMB) coverage.

Under the MassHealth Buy-In for QMB, MassHealth pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B. (130 CMR 519.010(B)).

As noted by the MassHealth representative at hearing, as a disabled adult over the age of 65, the appellant may be eligible for MassHealth CommonHealth. Pursuant to 130 CMR 519.012(A)(1), MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age and older if they are: permanently and totally disabled; employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review; a citizen; and ineligible for MassHealth Standard. The appellant did not provide testimony or evidence of working at least 40 hours each month or being employed at least 240 hours in the six-month period immediately preceding the month of the eligibility review. Therefore, the appellant is not eligible for MassHealth CommonHealth at this time. As noted at hearing, if the appellant is able to provide MassHealth with evidence of working at least 40 hours each month, MassHealth can review the records and reconsider her eligibility.

This appeal is denied as all the eligibility decisions made by MassHealth were correct.

## **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290