

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402132
Decision Date:	03/21/2024	Hearing Date:	03/18/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Courtney Juday



*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
Decision Date:	03/21/2024	Hearing Date:	03/18/2024
MassHealth's Rep.:	Courtney Juday	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	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 February 2, 2024, MassHealth notified the appellant that he is eligible for MassHealth Senior Buy-In as he 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 \$7,152 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on February 12, 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 he is eligible for MassHealth Senior Buy-In as he 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 two and has a gross monthly income of \$1,862. The income includes benefits from the Social Security Administration. After applying a \$20 disregard, the appellant's countable income of \$1,842 places him at 108% 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. For a family group of two, that income limit is \$1,704. The MassHealth representative testified that the appellant could become eligible for MassHealth Standard by meeting a deductible in the amount of \$7,152. The calculation of this deductible includes a standard deduction of \$650. The deductible period is February 2, 2024 to September 1, 2024.

The MassHealth representative testified that the appellant was eligible for MassHealth Standard in the past as he 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 agency lifted the PHE protection. (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 he can demonstrate to the agency that he works at least 40 hours each month. The MassHealth representative asked the appellant if he required services provided by a personal care attendant (PCA) as he may qualify for MassHealth under another program if he required such services. The appellant stated that he did not receive or require PCA services. The appellant testified that he is not working and cannot work due to his disability.

The appellant presented documents that were incorporated into the hearing record as Exhibit 4. The documents include a statement from the appellant regarding the change in coverage and benefits he no longer receives; a notice from November 2023 regarding a change to a deductible amount; and a document from the Massachusetts Law Reform Institute that summarized income limits for MassHealth and other Health programs. The appellant also provided a copy of a March 2024 Member Booklet for MassHealth, ConnectorCare Plans and Advance Premium Tax Credits, the Children's Medical Security Plan, and the Health Safety Net.

The booklet's introduction specifically states that the "booklet describes benefits for persons who are younger than 65 years of age and who are not living in nursing homes or other long-term-care facilities, and not receiving home-and community-based waiver services". (MassHealth March 2024 Member Booklet). The appellant did not meet any of those categories, so the booklet was deemed irrelevant to the matter at issue. It was also noted at hearing that a hearing decision is based upon agency regulations, not text in an agency booklet.

The appellant did not dispute the income information presented by MassHealth. The appellant testified that he was enrolled in a plan through the Commonwealth Care Alliance and that coverage was cancelled due to the eligibility decision on appeal. The appellant testified that he was enrolled in a Senior Care Options plan through Commonwealth Care Alliance so did not understand why that coverage would end. The MassHealth representative responded that members maintained coverage due to the protections noted above which were lifted in April 2023. The appellant felt that there was a glitch in the system as the Member Booklet he referred to led him to believe that he was eligible for MassHealth Standard as a disabled adult with income less than 133% of the federal poverty level. The appellant also argued that the \$650 deductible is utilized in determining eligibility rather than just calculating a deductible. The appellant argued that applying this \$650 deductible to the appellant's income would result in income less than 100% of the federal poverty level for a family of two.

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 two with a gross monthly income of \$1,862.
3. The income includes benefits from the Social Security Administration.
4. After applying a \$20 disregard, the appellant's income is at 108% of the federal poverty level.
5. The appellant can become eligible for MassHealth Standard by meeting a deductible in the amount of \$7,152.
6. The deductible period is from February 2, 2024 to September 1, 2024.
7. The appellant was eligible for MassHealth Standard in the past.
8. The appellant has not received certification that he 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 his family group of two has a gross monthly unearned income of \$1,862 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 he receives or is in need of personal care attendant services. In fact, the appellant specifically stated that he 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 \$1,842 exceeds 100% of the federal-poverty level for a family of two. (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)).

The regulations at 130 CMR 515.001 define a deductible as the total dollar amount of incurred medical expenses that an applicant whose income exceeds MassHealth income standards must be responsible for before the applicant is eligible for MassHealth, as described at 130 CMR 520.028. A deductible is not something that the agency considers in the initial calculation of countable income in determining eligibility as the appellant suggested.

The deductible is determined by multiplying the excess monthly income by six. (130 CMR 520.030). Excess monthly income is the amount by which the applicant's countable-income amount as described in 130 CMR 520.009 exceeds the MassHealth deductible-income standard. (130 CMR 520.030).

MassHealth Deductible Income Standards		
Number of Persons	Monthly Income Standard for Community Resident	Monthly Income Standard for Long-Term Care Facility Resident
1	\$500	\$72
2	\$650	

In this case, the appellant's monthly income of \$1,842 exceeds the MassHealth deductible standard of \$650 for a household of 2 by \$1,192 [$\$1,842 - \$650 = \$1,192$]. Therefore, the appellant has an excess monthly income of \$1,192. Multiplying this excess monthly income of \$1,192 by six results in a deductible of \$7,152 [$\$1,192 \times 6 = \$7,152$]. MassHealth correctly determined that to become eligible for MassHealth Standard, the appellant would have to meet a deductible in the amount of \$7,152. (130 CMR 520.030).

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 his 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186