

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403713
Decision Date:	6/27/2024	Hearing Date:	04/12/2024
Hearing Officer:	Radha Tilva	Record Open to:	05/30/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Michelle Trainor, Tewksbury 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

Appeal Decision:	Denied	Issue:	Eligibility – over 65 - income
Decision Date:	6/27/2024	Hearing Date:	04/12/2024
MassHealth's Rep.:	Michelle Trainor	Appellant's Rep.:	Pro se
Hearing Location:	Telephonic	Aid Pending:	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 March 1, 2024, MassHealth determined that appellant has a change in her coverage from MassHealth Standard to MassHealth Senior Buy-In because her income and assets are too high (Exhibit 1). The appellant filed this appeal in a timely manner on March 8, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032). The record was held open at hearing until May 30, 2024 for appellant to inform MassHealth as to whether or not she would apply for the Frail Elder Waiver program or CommonHealth.

Action Taken by MassHealth

MassHealth determined that appellant's coverage would change from MassHealth Standard to MassHealth Senior Buy-In.

Issue

The appeal issue is whether MassHealth was correct in determining that appellant is over the income limit for MassHealth Standard benefits, but eligible for MassHealth Senior Buy-In.

Summary of Evidence

The MassHealth representative and appellant both appeared by telephone. The MassHealth representative testified that appellant is no longer eligible for MassHealth Standard benefits because her income is over the limit. Appellant has a household size of one and gross Social Security income of \$1,402.00 a month. MassHealth's income limit for a household size of one for an individual over the age of ■ is \$1,255.00, or 100% of the federal poverty level. The representative explained that MassHealth gave a standard \$20.00 income disregard which gave appellant a countable income of \$1,382.00, putting her at 110.10% of the federal poverty level.

The representative explained that appellant has a disability in MassHealth's system and that she could qualify for the PCA income disregard, however, she checked off "no" where it asked if she needed assistance. Appellant testified at hearing that she does not need assistance in the home. The representative explained the approval process for MassHealth CommonHealth as well as the Frail Elder Waiver Program at hearing. The record was left open for appellant to decide between the options presented at hearing and it was determined that if she were to apply for the Frail Elder Waiver program additional time could be given to allow for a determination.

The record was left open until May 30, 2024. On May 28, 2024 the MassHealth representative stated that no documents were received for the Frail Elder Waiver program, PCA supplement, or CommonHealth letter. Appellant did not respond to the communication as well.

Findings of Fact

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

1. On March 1, 2024, MassHealth determined that appellant is no longer eligible for MassHealth Standard benefits, but is eligible for MassHealth Senior Buy-In.
2. The appellant appealed this notice to the Board of Hearings on March 8, 2024.
3. The appellant is over the age of ■ disabled, and with a household size of one.
4. The appellant's gross monthly total countable income after MassHealth's \$20.00 income disregard is equal to \$1,382.00.
5. The income limit for MassHealth Standard is 100% of the federal poverty level which equates to \$1,255.00 a month.
6. There is no Frail Elder Waiver, working disabled adult letter, or PCA supplement on record.

Analysis and Conclusions of Law

The regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over age [REDACTED]. The type of coverage for which a person is eligible is based on the person's and the spouse's income, assets, and immigration status (130 CMR 515.003(B)).

Per 130 CMR 519.005(A), an individual would meet the requirements of MassHealth Standard coverage if:

- (1) the countable-income amount, as defined in 130 CMR 520.009: *Countable-Income Amount*, 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.

(Emphasis added). An individual's countable income amount refers to the individual's gross earned and unearned income less certain business expenses and standard income deductions (130 CMR 520.009). MassHealth allows a \$20 deduction per individual or couple from the member's total gross unearned income (130 CMR 520.013(A)). If an individual exceeds these standards, he or she may establish eligibility by meeting a deductible (130 CMR 519.005(B)).

Here, Appellant's monthly income is \$1,402. Less the \$20 deduction, appellant's income is 110.10% of the FPL. This exceeds the qualifying limit of 100% for MassHealth Standard, which is equal to \$1,255.00 for a household size of one. In order to receive MassHealth Standard benefits, appellant would have to qualify for a special circumstance such as the Frail Elder Waiver, which has an income limit of 300% of the FPL (See 130 CMR 519.007(B)(2)(b)). As appellant did not qualify for MassHealth Standard at the time the determination was made, this decision is denied.

With respect to MassHealth's determination that appellant's coverage type should change to MassHealth Senior Buy-In, this determination is correct. As established above appellant is no longer eligible for MassHealth Standard benefits. Individuals not eligible for MassHealth Standard may still be eligible to have MassHealth pay the individual's Medicare premium if they qualify for a Medicaid Savings Program (MSP or Buy-in) plan. Effective November 24, 2023, MassHealth offers three MSP coverage types: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualifying Individuals (QI).

Under 130 CMR 519.011(A) (emphasis added):

(A) Eligibility Requirements. MSP (Buy-in) 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.

(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B for members who establish eligibility for MSP coverage in accordance with 130 CMR 519.010(A).

Given that appellant's income is less than 190% of the FPL, she is within the income limit for MSP (Buy-In) QMB coverage. Based on the above MassHealth did not err in making this determination and this appeal is 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.

Radha Tilva
Hearing Officer
Board of Hearings

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