

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403959
Decision Date:	8/30/2024	Hearing Date:	July 25, 2024
Hearing Officer:	Brook Padgett	Record Open:	August 23, 2024

Appellant Representatives:




MassHealth Representative:

Shauna Post. Springfield MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	130 CMR 519.007
Decision Date:	8/30/2024	Hearing Date:	July 25, 2024
MassHealth Rep.:	S. Post	Appellant Reps.:	
Hearing Location:	Springfield		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The appellant received a notice dated January 12, 2024 stating: MassHealth has decided you are not eligible for MassHealth because you have more countable income than MassHealth benefits allow. You have a deductible of \$11,598.00. The deductible period is November 01, 2013 to May 01, 2014. (130 CMR 520.002, 520.028). (Exhibit 1).

The appellant filed this appeal timely on March 14, 2024. (130 CMR 610.015(B); Exhibit 2).¹

Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's benefit application as she is over the income limit.

Issue

Is the appellant over the income limit for MassHealth Standard eligibility?

¹ This appeal was originally scheduled for hearing on May 06, 2024 which was rescheduled to June 17, 2024 at the appellant's request. The appellant's June 17, 2024 appeal was rescheduled to July 25, 2024 at the appellant's request due to her recovery from a medical injury.

Summary of Evidence

MassHealth testified that on September 25, 2023, Greater Springfield Senior Services, Inc., submitted a Frail Elder Waiver clinical eligibility assessment on behalf of the appellant. On October 02, 2023, the appellant submitted an application for MassHealth. MassHealth stated that at the time of application the appellant met clinical eligibility for the Frail Elder Waiver program, however the appellant's income of \$2,890.00 (\$1,007.00 Social Security + \$1,883.00 pension) per month exceeded 300% of the federal benefit rate (FBR) (\$2,742.00) and she was determined ineligible for the program. MassHealth indicated the appellant currently has verified income of \$2,923.00 (\$1,040.00 Social Security + \$1,883.00 private pension) per month which also exceeds 300% of the FBR (\$2,829.00). MassHealth stated the appellant would be eligible for MassHealth if she met a deductible of \$11,598.00 every six months.²

The appellant was represented by her daughter and son who argued the appellant is [REDACTED] years old and qualified for the Frail Elder Waiver in October 2023, as her income was below the income standard for the program. The representatives asserted they had a conversation with a worker in the Taunton MEC who explain MassHealth should be using the appellant's Modified Adjusted Gross Income (MAGI) located on line 5 of the appellant's tax returns to determine eligibility. The representative maintains this figure places the appellant under the income limit for the Frail Elder Waiver program. The representatives were unable to confirm the appellant's current Social Security or pension, or 2023 tax returns and produced a copy of the appellant's 2022 tax returns.

MassHealth responded that the appellant was over the income standard for the program at the time of her application in 2023 and currently remains over the income standard. MassHealth argued that it was unnecessary to rely on the appellant's tax returns to determine eligibility as they have verified the appellant's current Social Security and pension income which is the most up to date information available. MassHealth stated at the time of the original application the appellant's private pension statement provided the 2022 payment amount and the forthcoming 2023 payment amount. Federal 1040 tax figures also submitted at the time indicated 2021 annual pension gross amount of \$18,731.00 and 2022 annual pension gross amount of \$20,796.00. The appellant's current Social Security and pension were used to determine the appellant's current eligibility.

The record remained open until August 23, 2024, for the appellant's representatives to submit verification of the appellant's income, 2023 tax returns and a narrative in support. (Exhibit 4).

No additional information was submitted prior to the close of the record open period.

² Unearned income of \$2,890.40 - \$20.00 disregard = \$2,870.00 Total Countable Income - \$522.00 MassHealth Income Standard for household of 1 = \$2,348.00 - \$187.00 Health Insurance Premium - \$227.10 Medicare Self Pay = \$1,933.12 Monthly Net Deductible Amount. \$1,933.12 x 6 = \$11,598.00.

Findings of Fact

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

1. On September 25, 2023, MassHealth received an assessment from Greater Springfield Senior Services approving the appellant as clinically eligible for participation in the Frail Elder Waiver program. (Testimony).
2. On October 02, 2023, the appellant applied for MassHealth Standard benefits. (Testimony)
3. The appellant is an ■ year old member of a household of one with gross monthly income of \$2,890.00 (\$1,007.00 Social Security + \$1,883.00 pension) in 2023 and \$2,923.00 (\$1,040.00 Social Security + \$1,883.00 private pension) in 2024.
4. 300% of the FBR for a household of one in 2023 was \$2,742.00.
5. 300% of the FBR for a household of one in 2024 is \$2,829.00.

Analysis and Conclusions of Law

MassHealth is required to determine eligibility based on an applicant's gross income which is the total money earned or unearned, such as wages, salaries, rents, pensions, or interest, received from any source without regard to deductions.³ Although the appellant has been clinically approved for a Frail Elder Waiver, her income of \$2,890.00 in 2023 was over the 300% of the FBR of \$2,742.00 making her ineligible for MassHealth Standard at the time of application. Currently the appellant's income of \$2,923.00 is also over the 2024 FBR limit of \$2,829.00.

130 CMR 519.007: Individuals Who Would Be Institutionalized

(B) Home- and Community-Based Services Waiver

(1) Clinical and Age Requirements.

The Home- and Community-Based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agents to be in need of nursing-facility services to receive certain waiver services at home if he or she

- (a) is 60 years of age or older, and, if under age 65, is permanently and totally disabled in accordance with Title XVI standards; and
- (b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home- and Community-Based Services Waiver authorized under Section 1915(c) of the Social Security Act.

³ 130 CMR 501.001.

(2) Eligibility Requirements.

In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency counts the income and assets of only the applicant or member regardless of his or her marital status. **The applicant or member must:**

- (a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b);
- (b) **have a countable-income amount less than or equal to 300 percent of the federal benefit rate (FBR) for an individual;** and
- (c) have countable assets of \$2,000 or less and have not transferred resources for the sole purpose of obtaining MassHealth as described at 130 CMR 520.018 and 520.019 (*Emphasis added*).

(3) Financial Standards Not Met.

Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(B)(2) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004, by meeting a deductible as described at 130 CMR 520.028 et seq., or by both.
(*Emphasis added*).

MassHealth properly determined the appellant is over the income standard for MassHealth Standard through the Frail Elder waiver program. MassHealth also correctly calculated the appellant's deductible for MassHealth Standard as \$11,598.00. 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.

Brook Padgett
Hearing Officer
Board of Hearings

CC: [REDACTED]