

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403997
Decision Date:	06/04/2024	Hearing Date:	04/22/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Alain Michel – Tewksbury Ongoing



*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:	Over-65; Eligibility; Income
Decision Date:	06/04/2024	Hearing Date:	04/22/2024
MassHealth's Rep.:	Alain Michel	Appellant's Rep.:	██████
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 5, 2024, MassHealth downgraded the appellant's coverage from MassHealth Standard to Senior Buy-in coverage. (Exhibit 1; 130 CMR 519.002; 519.010.) The appellant filed this appeal in a timely manner on March 13, 2024, and his MassHealth Standard benefits are protected pending the outcome of this appeal. (Exhibit 2; 130 CMR 610.015(B); 130 CMR 610.036.) Reduction of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth downgraded the appellant's coverage from Standard benefits to Senior Buy-in, or the Medicare Savings Program for Qualified Medicare Beneficiaries.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002 and 520.000, in determining that the appellant's income is too high to qualify for MassHealth Standard for individuals over the age of 65.

Summary of Evidence

The appellant has a household of one, and he turned 65 while his MassHealth Standard benefits were being protected by the federal government during the Federal Public Health Emergency (“FPHE”) related to Covid-19. These protections were lifted on April 1, 2023, and MassHealth has been reviewing eligibility on a rolling basis since. During the appellant’s review, his gross income was verified as \$1,568 per month from Social Security.

MassHealth’s representative explained that this income is under 133% of the federal poverty level, but over the federal poverty level of \$1,255. The income limit for MassHealth coverage is actually higher when an individual is under 65, but after the appellant turned 65, the income threshold dropped to the federal poverty level.

The appellant did not dispute the income figure that MassHealth had for him, but he testified that he cannot afford to live on the income he gets, and he does not understand why the system would cut off at the federal poverty level. He testified that his monthly housing cost was \$2,450, and that he needed to take on a boarder to afford his rent. MassHealth’s representative testified that MassHealth cannot consider expenses in determining eligibility. MassHealth’s representative testified that if the appellant required physical assistance in his home, he could file a personal care attendant supplement with MassHealth, and he would be eligible for MassHealth Standard.

The appellant testified that he does not require physical assistance in his home, but he is concerned that he will in the near future. The appellant is in pretty good health right now and does not have any chronic medical conditions. However, he is concerned that something will come up and he will be left without the ability to afford the care he needs. The appellant also found the relationship between Medicare and Medicaid to be very confusing, and he was concerned that he was going to be left uncovered because he did not understand the system.

Findings of Fact

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

- 1) The appellant is over the age of 65 and he has a household of one. He receives gross monthly income of \$1,568 from Social Security. (Testimony by MassHealth’s representative.)
- 2) Based upon the appellant’s annual renewal, following the ending of the FPHE protections, MassHealth downgraded his coverage from Standard to Senior Buy-in. (Testimony by MassHealth’s representative; Exhibit 1.)
- 3) The appellant is not disabled and does not require a personal care attendant at this time. (Testimony by the appellant.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. One of the major dividing lines for eligibility is the age of 65. Individuals aged 65 and older are generally governed by the regulations at 130 CMR 515.000-520.000, and those under 65 are typically determined by the regulations at 130 CMR 501.000-508.000.

The requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age 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: *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.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), 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: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

Medicare recipients may qualify for a Medicare Savings Program with income at or below 225% of the federal poverty level. (See 130 CMR 519.010-519.011.) MassHealth refers to these benefits as "Buy-in" benefits, and the amount of assistance provided depends on the member's income. Individuals with income below 190% of the federal poverty level are eligible for the Medicare Savings Program ("MSP") for Qualified Medicare Beneficiaries ("QMB"). This benefit pays for "Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B" (130 CMR 519.010.) This benefit may only start "the first day of the calendar month following the date of the MassHealth eligibility determination." (130 CMR 519.010(C).)

The financial rules set out at 130 CMR 520.000 explain that all of an individual's "gross earned and unearned income less certain business expenses and standard income deductions" is countable,

and “the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.” (130 CMR 520.009(A)(1)-(2).) There are only two income deductions for community residents with unearned income: (1) “a deduction of \$20 per individual or married couple” or (2) a larger deduction if the individual “requires assistance from a personal care attendant.” (130 CMR 520.013(A)-(B).) However, if the applicant’s income is over 133% of the federal poverty level prior to the PCA deduction, the applicant still receives a deductible. (130 CMR 520.013(C).) Earned income receives a deduction of \$65, and then only half of the remaining income is countable. (130 CMR 520.012.)

The appellant’s income is over the federal poverty level, and he does not require “assistance from a personal care attendant” at this time. He is entitled to the \$20 deduction, but this leaves his countable income at \$1,548. As this is over the federal poverty level, MassHealth is correct that the appellant is over income for MassHealth Standard, and this appeal is DENIED.

Order for MassHealth

Remove Aid Pending.

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.

Christopher Jones
Hearing Officer
Board of Hearings

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