

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2404191
Decision Date:	06/13/2024	Hearing Date:	4/23/2024
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:



Appearance for MassHealth:

Trina Dessalines St. Fort, Taunton



*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:	06/13/2024	Hearing Date:	04/23/2024
MassHealth's Rep.:	Trina Dessalines St. Fort	Appellant's Rep.:	██████████
Hearing Location:	Taunton (remote)	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

By notice dated March 2, 2024, MassHealth notified Appellant her coverage would downgrade from MassHealth Standard to Senior Buy In. Exhibit 1. Appellant filed this appeal in a timely manner on March 25, 2024 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth notified Appellant her coverage would downgrade from MassHealth Standard to Senior Buy In.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's income was too high for MassHealth Standard.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of one and is over the age of 65. On November 21, 2023, MassHealth reviewed updated information for Appellant and determined that her social security income was \$1,718 monthly. This is above 100% of the federal poverty level (FPL) to qualify for MassHealth Standard for a household of one. Though Appellant was eligible for a PCA disregard of \$1,148, Appellant's income was over MassHealth's limit for MassHealth Standard. Exhibit 1. On March 2, 2024, MassHealth notified Appellant that her coverage would downgrade from MassHealth Standard to Senior Buy In (or a Medicare Savings Program or MSP). MassHealth calculated a six-month deductible of \$160. *Id.* The MassHealth income standard is \$522, Appellant's income with PCA disregard is \$570, above the standard.

MassHealth suggested that Appellant apply for the frail elder waiver (FEW), which raises the limit for MassHealth Standard to 300% of the FPL.

Appellant's representative appeared by phone and submitted a letter in support, Exhibit 2. A summary follows. Appellant had a stroke in [REDACTED] and requires constant support and care. Appellant has begun the process of applying for the FEW. The agency has sent to Appellant's representative paperwork to fill out to submit and begin the process. There were delays due to agency nurses being on vacation. Appellant's representative has not been able to meet the deductible because the benefits have been preserved with the appeal.

Findings of Fact

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

1. Appellant is in a household of one and over the age of 65.
2. Appellant's gross monthly unearned income is \$1,718.
3. In 2024, 100% of the monthly FPL for a household of one was \$1,255.
4. On March 2, 2024, MassHealth notified Appellant that her coverage would downgrade from MassHealth Standard to Senior Buy-In (MSP). MassHealth calculated a six-month deductible of \$160. Exhibit 1.
5. Appellant filed this appeal in a timely manner on March 25, 2024 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2.

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 65. 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).

Community residents over the age of 64 who apply for MassHealth Standard must meet the requirements set forth in 130 CMR 519.005:

(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.

The regulations regarding the countable-income amount are set forth in 130 CMR 520.009, set forth in relevant part:

520.009: Countable-income Amount

(A) Overview.

- (1) An individual's 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. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility

...

(B) MassHealth Income Standards. Generally, financial eligibility is based on a percentage of the federal poverty level. The monthly federal poverty level standards are determined according to annual standards published in the *Federal Register*. The MassHealth agency adjusts these standards annually using the following formula.

- (1) Divide the annual federal poverty level income standard as it appears in the

Federal Register by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal poverty level percentage.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

For community individuals, MassHealth allows certain standard earned- and unearned-income deductions from gross income, described in 130 CMR 520.012 through 520.014. Relevant here is the “PCA disregard” set forth in 130 CMR 520.013(B) (emphasis added):

(B) in determining eligibility for MassHealth Standard, a deduction that is equivalent to the difference between the applicable MassHealth deductible-income standard at 130 CMR 520.030 and 133% of the federal poverty level. This deduction includes, and is not in addition to, the \$20 disregard.

(1) This deduction from gross unearned income is allowed only for persons who

(a) are 65 years of age and older;

(b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and

(c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level.

(2) The MassHealth agency will redetermine eligibility without this deduction if

(a) after 90 days from the date of the MassHealth agency eligibility approval notice, the person is not receiving personal-care attendant services paid for by the MassHealth agency or has not submitted, upon request from the MassHealth agency, proof of efforts to obtain personal-care attendant services paid for by the MassHealth agency; or

(b) the MassHealth agency denies the prior-authorization request for personal-care attendant services.

(3) If countable income, prior to applying the deduction at 130 CMR 520.013(B), is **greater than 133 percent of the federal poverty level, eligibility is determined under 130 CMR 519.005(B): *Financial Standards Not Met.***

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 519.010, a member is eligible for MSP QMB if they meet the following requirements:

(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).

(C) Begin Date. The begin date for MSP coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

Here, Appellant's monthly income is \$1,718 and her assets are under the \$2,000 limit. Less the \$20 deduction, Appellant's income is 135% of the FPL. This exceeds the qualifying limit of 100% for MassHealth Standard. This also exceeds 133% of the FPL after applying the \$20 deduction, but before prior to applying PCA disregard. Therefore, to qualify for MassHealth Standard, Appellant must meet a deductible pursuant to 130 CMR 519.005(B).

MassHealth determined that Appellant did not qualify for MassHealth Standard with the PCA disregard, but qualifies for Senior Buy-In (MSP) pursuant to 130 CMR 519.010. Exhibit 1. As this decision was not made in error, this appeal is denied.

Appellant is encouraged to apply for the FEW, which provides MassHealth Standard for qualifying individuals whose income is less than or equal to 300% of the FPL. 130 CMR 519.007(B)(2)(b).

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

[REDACTED]