

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2404604
<b>Decision Date:</b>	5/6/2024	<b>Hearing Date:</b>	04/23/2024
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**

*Via telephone:*

Pro se

**Appearance for MassHealth:**

*Via telephone:*

Sean Brescia, Tewksbury MEC



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over 65; Income
<b>Decision Date:</b>	5/6/2024	<b>Hearing Date:</b>	04/23/2024
<b>MassHealth's Rep.:</b>	Sean Brescia	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Remote	<b>Aid Pending:</b>	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 March 2, 2024, MassHealth notified the appellant that he had more countable income than MassHealth benefits allowed (Exhibit 1). The appellant filed this appeal in a timely manner on March 22, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial and/or termination of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth informed the appellant that his MassHealth benefits were terminating because he was over the countable income limit.

### Issue

The appeal issue is whether MassHealth was correct in terminating his MassHealth benefits because he had more countable income than MassHealth allows.

## Summary of Evidence

Both the appellant and the MassHealth representative appeared at the hearing via telephone. The MassHealth representative testified as follows: the appellant is over the age of [REDACTED] with a household size of one and verified disability. Pursuant to the March 2, 2024 notice under appeal, his MassHealth Standard coverage terminated on March 16, 2024 because he has more countable income than MassHealth benefits allow. The appellant has gross monthly income of \$3,323 from Social Security. This puts him over the income limit to qualify for MassHealth benefits. That limit is 100% of the Federal Poverty Level, which for a household of one is \$1,255 gross per month. His assets were under the \$2,000 asset limit. The appellant is currently active with the Health Safety Net with a start date of March 2, 2024.

The MassHealth representative explained that previously, the appellant had been on MassHealth Standard in the [REDACTED] system. The income limit for those under [REDACTED] is different than for those over [REDACTED]. Due to protections in place during the COVID-19 Public Health Emergency, the appellant remained on MassHealth Standard, despite being over the age of [REDACTED] and over the income limit. Once the Public Health Emergency protections ended, his information was updated and his eligibility was re-evaluated, resulting in the determination on March 2, 2024.

The appellant testified that the income figure offered by MassHealth is correct. He was looking for clarification on how the deductible in the notice worked. He also stated that he pays for rent, food, and other bills and gets no other assistance. He has Medicare but uses MassHealth as his supplement. His concern is that he takes ten to twelve different medications every month. He has heart disease, diabetes, and a history of stroke. He stated that he did not receive the termination notice until two days before the termination date, which he did not think was fair.

The MassHealth representative explained how the deductible works. He also stated that because the appellant has a verified disability, he would be eligible for MassHealth CommonHealth, but MassHealth would need a working letter.

## Findings of Fact

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

1. The appellant is over the age of [REDACTED] and has a household size of one and verified disability (Testimony and Exhibit 4).
2. On March 2, 2024, MassHealth notified the appellant that his MassHealth benefits would terminate on March 16, 2024 because his income was too high to qualify for MassHealth Standard (Testimony and Exhibit 1).

3. At the time of the notice, MassHealth determined the appellant's gross monthly income was \$3,323 from Social Security and his assets were under \$2,000 (Testimony and Exhibit 1).
4. The appellant did not dispute his income (Testimony).
5. To qualify for MassHealth Standard coverage, the appellant's gross income would have to be at or below 100% of the Federal Poverty Level, or \$1,255 monthly for a household of one, and his assets at or below \$2,000 (Testimony).
6. On March 22, 2024, the appellant timely appealed the March 2, 2024 notice (Exhibit 2).
7. The appellant's MassHealth Standard benefits terminated on March 16, 2024 and he has been active with the Health Safety Net since March 2, 2024 (Testimony and Exhibit 1).

## Analysis and Conclusions of Law

130 CMR 519.005 states the following for 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.

(Emphasis added)

As explained above, to qualify for MassHealth Standard benefits, the countable income of an individual who is over the age of ■ must be equal to or less than 100% of the Federal Poverty Level, which for a household of one is \$1,255. The appellant's most recently verified gross monthly income is \$3,323 from Social Security. With the \$20 disregard, his countable income is \$3,303, which is above the allowable limit to qualify for MassHealth Standard benefits. As such, MassHealth correctly determined that the appellant was over the income limit for MassHealth benefits.

Additionally, MassHealth benefits terminate no sooner than fourteen days from the date of the termination notice, unless the MassHealth member timely files an appeal and requests continued MassHealth benefits pending such appeal. 130 CMR 516.006(B). For benefits to continue pending

the appeal, the request for hearing must be received before the implementation date of the appealable action or, if the appealable action has already been implemented, within ten days (plus five for mailing) of the mailing of the notice of the appealable action. 130 CMR 610.036(A). As such, MassHealth's March 2, 2024 notice correctly determined the termination date of March 16, 2024, which was no sooner than fourteen days from the date of the notice. Furthermore, the appellant's March 22, 2024 request for fair hearing did not meet the time requirements to qualify for a continuation of his benefits pending the appeal. The appeal request was more than fifteen days from the date of the termination notice and received after the appealable action (the March 16, 2024 termination) was implemented.

For these reasons, the 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.

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Alexandra Shube  
Hearing Officer  
Board of Hearings

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