

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied | Appeal Number: | 2404801 |
| Decision Date: | 6/20/2024 | Hearing Date: | 05/01/2024 |
| Hearing Officer: | Emily Sabo | | |

Appearance for Appellant:



Appearance for MassHealth:

Briana Burgos, 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

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| Appeal Decision: | Denied | Issue: | Community Eligibility; Over 65; Deductible |
| Decision Date: | 6/20/2024 | Hearing Date: | 05/01/2024 |
| MassHealth's Rep.: | Briana Burgos | Appellant's Rep.: | Pro se |
| Hearing Location: | Tewksbury MassHealth Enrollment Center (Telephone) | Aid Pending: | 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 1, 2024, MassHealth changed the Appellant's deductible and calculated a deductible of \$6,210 for the period of January 3, 2024 to August 1, 2024. *See* 130 CMR 520.002, 130 CMR 520.028, and 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 of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth found that that the Appellant's income is too high for MassHealth Standard and that Appellant could maintain MassHealth Standard benefits through meeting a deductible of \$6,210 for the period of January 3, 2024 to August 1, 2024.

Issue

Was MassHealth correct in determining that the Appellant is not eligible for MassHealth Standard due to her income?

Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is over the age of 65, and has a household size of one. The MassHealth representative reported that the Appellant's household income is \$1,585/month from Social Security. The MassHealth representative testified that to qualify for MassHealth Standard, the household income must be 100% or less of the federal poverty level, which equals \$1,255/month for a household of one. The MassHealth representative explained that the Appellant could qualify for MassHealth Standard coverage for the remainder of the deductible period if she meets a 6-month deductible totaling \$6,210.

The Appellant was represented by her daughter, who verified the Appellant's identity. The Appellant's representative does not dispute MassHealth's income determination for the Appellant. The Appellant's representative testified that the Appellant has been enrolled in MassHealth Standard, and that the Appellant's husband's death increased the Appellant's Social Security benefits. The Appellant's representative expressed that it was unfair that the Appellant would lose MassHealth Standard benefits solely due to an increase in Social Security income of about \$300, and that the Appellant's medical expenses are greater than that increase. The Appellant's representative referenced the number of bills that the Appellant has including utilities, real estate taxes, and recent dental services from spring, 2024 totaling \$8,001 (payments of \$1,901 and \$6,100). The Appellant's representative testified that she (Appellant's daughter) paid for these dental services because the Appellant could not afford it.

The Appellant's representative reported that Appellant has remained in good, stable health after being hospitalized last fall for a span of roughly two months. The Appellant's representative explained that the Appellant lives alone, is independent with all activities of daily living, and is assisted a few hours weekly with some incidental activities of daily living, such as meal preparation.

The Appellant's representative asked MassHealth representative what coverage or option is recommended for the Appellant. The MassHealth representative stated that the Appellant could request a clinical assessment from an elder services organization to see if the Appellant would qualify for the frail elder waiver under 130 CMR 519.007(B), but informed the Appellant's representative that the Appellant's current good health would likely make her ineligible for the waiver. The MassHealth representative explained that the Appellant would likely be best served by applying for Medicare Part C (also known as Medicare Advantage Plan). The Appellant's income

also qualifies her for the Medicare Savings Program (MSP) for Qualified Medicare Beneficiaries (QMB), which is commonly referred to as MassHealth Senior Buy-In. 130 CMR 519.010(A).

Findings of Fact

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

1. The Appellant is over the age of 65. Testimony and Exhibit 4.
2. The Appellant has a household size of one. Testimony.
3. The Appellant has a monthly household income of \$1,585, consisting of Social Security benefits. Testimony and Exhibit 1.
4. MassHealth calculated that the Appellant has a deductible of \$6,210 for the period of January 3, 2024 to August 1, 2024. Exhibit 1.
5. The Appellant is eligible for MassHealth Standard for the remainder of the deductible period after meeting this deductible. Testimony and Exhibit 1.

Analysis and Conclusions of Law

I am sorry for the Appellant's financial challenges and that her expenses exceed her increased Social Security benefits. However, to the extent that these arguments pertain to the legality of the applicable regulations, it is beyond the scope of the hearing officer's decision-making authority. MassHealth Fair Hearing regulations state, in pertinent part:

the hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the Appellant, ***the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency.*** Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

130 CMR 610.082(C)(2) (emphasis added)

In evaluating financial eligibility for MassHealth Standard, the regulations at 130 CMR 519.005 provide:

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C),¹ 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% 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))

520.013: Community Unearned-income Deductions

In addition to business expenses described at 130 CMR 520.010, the MassHealth agency allows the deductions listed below from the total gross unearned income. These deductions do not apply to the income of a community spouse described at 130 CMR 520.026(B). The deductions allowed from the total gross unearned income are the following:

- (A) a deduction of \$20 per individual or married couple; or

...

(130 CMR 520.013(A))

The MassHealth regulations at 130 CMR 501.001 define the federal poverty level as, “income standards issued annually in the *Federal Register* to account for the last calendar year's increase in prices as measured by the Consumer Price Index.” For 2024, the *Federal Register* states that the federal poverty level for a household of one is \$1,255/month.

Therefore, because there is no dispute that the Appellant’s household income is \$1,585/month, which is greater than 100% of the federal poverty level or \$1,255, the Appellant is not financially eligible for MassHealth Standard unless she meets the deductible provided for in 130 CMR 519.005(B).² 130 CMR 519.005(A)(1). Accordingly, the Appellant is not financially eligible for

¹ 130 CMR 519.005(C) describes the eligibility requirements for parents or caretaker relatives of a child younger than 19 years old.

² As discussed at the hearing, if an elder services organization evaluates the Appellant and finds her clinically eligible for the frail elder waiver program, she may be financially eligible for MassHealth Standard. 130 CMR 519.007(B).

MassHealth Standard.

The Appellant may establish eligibility by meeting a deductible. (130 CMR 520.028(B)). The Appellant's unearned income for the deductible calculation is \$1,585. Exhibit 1. The Appellant's unearned income is subject to an unearned income disregard of \$20. (130 CMR 520.013(A)). Therefore, the Appellant's countable income is \$1,565. The MassHealth Income Standard applicable to an individual age 65 or older residing in the community is \$522 per month for a household of one (130 CMR 520.030). The deductible is the total dollar amount of incurred medical expenses that an individual is responsible for before MassHealth eligibility is established. (130 CMR 520.031). The deductible period is typically 6 months, and the deductible is determined by multiplying the excess monthly income by 6. (130 CMR 520.029 and 130 CMR 520.030). The excess income is the amount by which the Appellant's countable income exceeds the MassHealth Income Standard. 130 CMR 520.030. In the present case, the Appellant's countable income of \$1,565 exceeds the MassHealth income standard of \$522 by \$1,043. MassHealth determined a total deductible for the period of January 3, 2024 to August 1, 2024 of \$6,210. Accordingly, the Appellant is responsible for \$6,210 of incurred medical expenses for the deductible period of January 3, 2024 to August 1, 2024, before eligibility for MassHealth Standard can be established.³

MassHealth's action is upheld, and the appeal is denied.

Order for MassHealth

None.

³ The MassHealth regulations at 130 CMR 520.032 to 130 CMR 520.035 provide further information including on how to submit bills to meet the deductible.

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.

Emily Sabo
Hearing Officer
Board of Hearings

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

Appellant Representative: [REDACTED]