

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2405299
Decision Date:	06/28/2024	Hearing Date:	05/09/2024
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:



Appearance for MassHealth:

Via telephone

Kelly Souza – Taunton 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

Appeal Decision:	Denied	Issue:	Eligibility; Over 65; Over income
Decision Date:	06/28/2024	Hearing Date:	05/09/2024
MassHealth's Rep.:	Kelly Souza	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center Room 2 (Remote)	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 2, 2024, MassHealth notified the appellant that he is no longer eligible for MassHealth Standard because his income exceeds the program limit (Exhibit 1). The notice further stated that his coverage will change to Senior Buy In benefits beginning March 16, 2024. *Id.* The appellant filed this appeal in a timely manner on April 2, 2024 (130 CMR 610.015(B); Exhibit 2). Termination and/or reduction of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that his MassHealth Standard coverage would be downgraded to Senior Buy In benefits on March 16, 2024 because he is over the allowable income limit.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant's coverage should be downgraded from MassHealth Standard to Senior Buy In benefits.

Summary of Evidence

The MassHealth representative that appeared at hearing *via* telephone and testified that on March 2, 2024, MassHealth sent the appellant a downgrade notice informing him that effective March 16, 2024, his benefits have changed from MassHealth Standard to Senior Buy In benefits (Exhibit 1). The March 2nd downgrade notice also informed the appellant that he had a deductible of \$ 9,954.00 for a period of March 24, 2024 through August 24, 2024 (Exhibit 1, p. 2). The March 2nd downgrade notice was issued following a data match with the Social Security Administration (SSA) which shows that the appellant's gross monthly income is \$2,201.00. The appellant previously received MassHealth Standard benefits during the COVID Public Health Emergency (PHE). At that time, the appellant was over the income limits for MassHealth Standard coverage, however, his benefits were protected until the end of the PHE. The appellant is over the age of 65 and resides in the community in a household size of one. The MassHealth representative explained that if the appellant accrues \$9,954.00 in medical expenses during the deductible period timeframe, he can submit proof of such to MassHealth and at that time, he may be eligible to receive MassHealth Standard benefits.

The MassHealth representative testified that the income limit for MassHealth Standard benefits is 100% of the federal poverty level (FPL) which equates to \$1,255.00. The appellant's current gross monthly income from Social Security (\$2,201.00) equates to 175% of the FPL. Because the appellant is over the income limit to receive MassHealth Standard coverage, MassHealth downgraded his benefits to Senior Buy In (Testimony).

The appellant appeared at the hearing telephonically and testified that while he understands the reason for the March 2nd downgrade notice, his issue is that he cannot walk. The appellant has not been deemed federally disabled; however, his physician is aware of the lack of circulation in both of his lower extremities. The appellant testified that he does not know how to file for disability, but explained that the lack of his ability to walk affects his daily living. The appellant testified that he does not have a Personal Care Attendant (PCA) and lives by himself. He contacted his local elder service agency but he does not receive any assistance from this agency.

The MassHealth representative suggested that the appellant contact his local elder service agency again and request an assessment to see if he qualifies for one of MassHealth's community-based waiver programs (the Frail Elder Waiver). Alternatively, the appellant can opt to submit a disability application, called a Disability Supplement, to Disability Evaluation Services (DES). If MassHealth deems the appellant disabled, he may qualify for MassHealth CommonHealth coverage. The

appellant stated that he already contacted his local elder service agency and has not heard back from anyone. The MassHealth representative suggested that he contact his local elder service agency again and request a Frail Elder waiver assessment.¹ The MassHealth representative suggested that the appellant explain to the elder service agency that he is unable to walk, his MassHealth benefits were downgraded, and therefore he needs an assessment performed as soon as possible. She stated that once an assessment is completed, the appellant will receive a letter. Once the appellant receives a determination letter, the MassHealth representative testified that the appellant can contact her directly to inform her of the outcome. She explained that the appellant will be notified before MassHealth is notified. The appellant agreed that he would contact his local elder service agency and would subsequently contact the MassHealth representative once he receives a determination on the waiver program. The appellant asked what he should do in the interim if he were to become ill. The MassHealth representative testified that if the appellant becomes ill to call 911, contact his physician, or go to the hospital to get medical services rendered. The MassHealth representative reiterated that the appellant should contact his local elder service agency and request an assessment as soon as possible.

Findings of Fact

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

1. The appellant is over the age of 65 and has a household size of one.
2. The appellant previously received MassHealth Standard benefits, which were protected through the PHE.
3. On March 2, 2024, the appellant's Social Security income was matched and verified at \$2,201.00.
4. On March 2, 2024, MassHealth determined that the appellant is over the income limits for MassHealth Standard benefits and downgraded his benefits to Senior Buy In.
5. The income limit for MassHealth Standard benefits is 100% of the FPL, or \$1,255.00.
7. The appellant is unable to walk due to circulation issues.
8. The appellant has not been deemed federally disabled.
9. The appellant timely appealed MassHealth's downgrade determination.

¹¹ The contact number for the appellant's local elder service agency is 508-394-4630.

Analysis and Conclusions of Law

The issue under appeal is whether MassHealth erred in downgrading the appellant's MassHealth Standard coverage to Senior Buy In benefits.

519.001: Introduction

(A) Categorical Requirements and Financial Standards. 130 CMR 519.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and the calculation of financial eligibility are detailed in 130 CMR 520.000: MassHealth: Financial Eligibility.

(B) MassHealth Coverage Types. The MassHealth coverage types available to individuals 65 years of age and older, institutionalized individuals, and those who would be institutionalized without community-based services are the following:

- (1) MassHealth Standard;
- (2) MassHealth Limited;
- (3) Medicare Savings Programs (MSP) for Qualified Medicare Beneficiaries (QMB) (Senior Buy-In);
- (4) Medicare Savings Programs (MSP) for Specified Low Income Medicare Beneficiaries and Qualifying Individuals (Buy-In);
- (5) MassHealth CommonHealth; and
- (6) MassHealth Family Assistance.

(C) Determining Eligibility. The MassHealth agency determines eligibility for the most comprehensive coverage available to the applicant, although the applicant has the right to choose to have eligibility determined only for MSP for Qualified Medicare Beneficiaries (QMB) or MSP for Specified Low Income Medicare Beneficiaries and Qualifying Individuals coverage. If no choice is made by the applicant, the MassHealth agency determines eligibility for all available coverage types.

The appellant is over the age of 65 and lives in the community. Pursuant to 130 CMR 519.005(A) noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they have a countable income less than or equal to 100% of the FPL. 100% of the FPL for a household size of one is \$1,255.00 gross monthly income. The appellant does not dispute that his gross monthly income of \$2,201.00 is over that threshold. His dispute concerns the lack of healthcare coverage given his inability to walk. Because the appellant's gross monthly income is over the allowable income limits for MassHealth Standard coverage, I find that MassHealth did not err in issuance of the March 2, 2024 downgrade notice. On this record, this appeal is denied.²

² This denial does not preclude the appellant from contacting his local elder service agency to request a frail elder waiver assessment, if he has not already done so.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

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