

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2406022
Decision Date:	05/30/2024	Hearing Date:	05/21/2024
Hearing Officer:	Sharon Dehmand		

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

Appeal Decision:	Approved	Issue:	Community Eligibility-over 65; Verifications
Decision Date:	05/30/2024	Hearing Date:	05/21/2024
MassHealth's Rep.:	Briana Burgos	Appellant's Rep.:	
Hearing Location:	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 April 5, 2024, MassHealth downgraded the appellant from MassHealth Standard plus Medicare Savings Program (a.k.a. Senior Buy-In) because his income exceeded the threshold. See 130 CMR 519.010 and Exhibit 1. The appellant filed this appeal in a timely manner on April 16, 2024. See 130 CMR 610.015(B) and Exhibit 2. Any MassHealth decision to suspend, reduce, terminate, or restrict a member's assistance is valid ground for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth downgraded appellant's MassHealth Standard plus Medicare Savings Program effective March 2, 2024.

Issue

Whether MassHealth was correct in downgrading appellant's MassHealth Standard plus Medicare Savings Program pursuant to 130 CMR 520.001; 130 CMR 519.007; and 130 CMR 519.010.

Summary of Evidence

Both MassHealth and the appellant participated telephonically. MassHealth was represented by a worker from the Tewksbury MassHealth Enrollment Center. The appellant appeared pro se and verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant was initially eligible for MassHealth Standard plus Medicare Savings Program (MSP) under the Frail Elder Waiver (FEW) program with income at or below 300% of the Federal Benefit Rate (FBR), or \$2829.00 per month. MassHealth representative stated that there was a change in appellant's income which included earned income from Marshalls department store in addition to his unearned income¹ of \$2585.48 per month. The appellant's MassHealth benefits were downgraded effective March 2, 2024. However, the appellant was subsequently approved for MassHealth Standard plus MSP effective May 1, 2024, after he provided income verification. The MassHealth representative stated that the appellant will be reimbursed by Medicare for his Medicare Part B premium deduction effective May 1, 2024.

The appellant testified that he last worked for [REDACTED] three years ago. He verified that his monthly income is \$2585.58 per month. The appellant reported and provided a notice from the Social Security Administration that the amount of \$174.70 has been deducted from his Social Security check for Medicare Part B premium starting in March 2024. (Exhibit 5).

The MassHealth representative stated that since the appellant did not report the suspension of his earned income in a timely manner, his MassHealth benefits will begin on May 1, 2024.

Findings of Fact

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

1. The appellant is over 65 years of age and lives in a household of one. (Testimony).
2. The appellant was previously approved for MassHealth Standard plus MSP. (Testimony).
3. On March 2, 2024, the appellant's MassHealth Standard plus MSP was downgraded due to appellant's income exceeding the allowed threshold. (Testimony, Exhibit 1).

¹ Unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. See 130 CMR 520.009(D).

4. The appellant filed this appeal in a timely manner on April 16, 2024. (Exhibit 2).
5. The appellant's monthly income is \$2585.48. (Testimony).
6. The MassHealth Standard plus MSP under the FEW program income limit is at or below 300% of the Federal Benefit Rate (FBR), or \$2829.00 per month.

Analysis and Conclusions of Law

The MassHealth 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, and assets as described in 130 CMR 519.000. See 130 CMR 515.003(B). The categorical requirements and financial standards that must be met for a MassHealth coverage type are set forth in MassHealth Regulations 130 CMR 519.000 through 519.007.

There is no dispute regarding the appellant's categorical and financial eligibility for MassHealth Standard plus MSP under the FEW program. The only issue is whether MassHealth appropriately determined appellant's eligibility start date to be May 1, 2024, because he failed to update his income information. The following regulation is pertinent as to whether MassHealth can honor the original effective date of March 2, 2024, reflected on the MassHealth notice.

Per 130 CMR 610.071(A)(2), "[t]he hearing officer may not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. ***The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.*** (Emphasis added).

At the hearing, the appellant credibly testified that he had not worked at Marshalls for the past three years. The MassHealth representative neither disputed his testimony nor presented any evidence to the contrary. The appellant submitted a request for a fair hearing on April 16, 2024. The downgrade notice of April 5, 2024, is within the time frame for appeal under 130 CMR 610.015(B). As outlined above, 130 CMR 610.071(A)(2) allows for an adjustment to the eligibility status on the date in which all eligibility conditions are met regardless of when the supporting evidence was submitted. Thus, eligibility should be based off appellant's March 2, 2024, redetermination date regardless of when he submitted the supporting evidence.

For the forgoing reasons, this appeal is hereby APPROVED pursuant to 130 CMR 610.035(A)(8).

Order for MassHealth

Rescind the notice dated April 5, 2024, and approve benefits retroactively to the date of termination.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Sharon Dehmand
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290