

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2406414
Decision Date:	07/9/2024	Hearing Date:	05/22/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Janine Monico – Tewksbury Ongoing



*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:	Community; Over-65; Income
Decision Date:	07/9/2024	Hearing Date:	05/22/2024
MassHealth's Rep.:	Janine Monico	Appellant's Rep.:	
Hearing Location:	Telephonic	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

Through a notice dated April 11, 2024, MassHealth downgraded the appellant's MassHealth Standard coverage to the Buy In (QI-Part B)¹ because the appellant's household income is too high. (Exhibit 1; 130 CMR 519.002; 519.010.) The appellant filed this appeal in a timely manner on April 19, and her benefits are protected pending the outcome of this appeal. (Exhibit 2; 130 CMR 610.015(B); 610.036.) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth downgraded the appellant from MassHealth Standard to the Medicare Savings Program for Qualified Individuals because her household income was too high. MassHealth calculated a six-month deductible of \$18,006 in order to qualify for MassHealth Standard.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, in determining that the appellant is ineligible for MassHealth Standard.

¹ This benefit has recently been relabeled the Medicare Savings Program for Qualified Individuals.

Summary of Evidence

The appellant and her spouse have a household of two, and they both turned 65 during the Federal Public Health Emergency (“FPHE”) for the Covid-19 Pandemic. Because they were eligible for MassHealth Standard during the FPHE, their benefits were protected through the end of the FPHE on April 1, 2023. Since that time, MassHealth has been processing renewals to determine current eligibility. In January, MassHealth auto-renewed the appellant’s eligibility based upon information collected from government data systems. This data-match information confirmed that the appellant’s spouse had started receiving \$3,671 in Social Security retirement benefits. This caused the downgrade notice to be issued, which set a six-month deductible at \$18,006 for the appellant to become temporarily eligible for Standard coverage again. MassHealth’s representative explained that the federal poverty level for a household of two is \$1,704, and MassHealth Standard coverage is only available without a deductible for people over the age of 65 if their income is below the federal poverty level.

The appellant is currently battling stage four cancer, and she is actively undergoing radiation therapy. The appellant does not dispute the income that MassHealth used to calculate her eligibility, but she argued she needs help with continuing her cancer treatment. MassHealth’s representative explained that there are additional benefits for individuals under the age of 65 who are breast or cervical cancer patients, but those coverages do not continue after the age of 65. MassHealth’s representative suggested that the appellant contact an Aging Service Access Point to ask that they perform a clinical evaluation for the Frail Elder Waiver, because that benefit only counts the applicant’s income not their spouse’s. She also recommended talking to a SHINE counselor about what other supplemental Medicare policies may be available if the appellant was not eligible for the Frail Elder Waiver, and finally suggested speaking with a social worker at the hospital at which she receives treatment to ask what other options exist to ensure her treatment is uninterrupted.

The appellant said she would pursue a clinical determination to see if she could become eligible for the Frail Elder Waiver.

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 two. (Testimony by the appellant and MassHealth’s representative.)
- 2) MassHealth auto-renewed the appellant in January and received data-match information regarding the appellant’s household income. The appellant’s household income is \$3,671 per month from Social Security. (Testimony by MassHealth’s representative.)

- 3) The appellant is battling stage four cancer. (Testimony by the appellant.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. Generally, the requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

519.005: 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.

(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) (emphasis added).)²

The appellant may temporarily be approved for MassHealth Standard if she incurs out-of-pocket medical expenses in excess of a six-month deductible. "The deductible period is a six-month period that starts on the first day of the month of application or may begin up to three months before the first day of the month of application." (130 CMR 520.029.) The deductible amount is "determined by multiplying the excess monthly income by six. Excess monthly income" is the difference between the countable income and \$650 (for a household of two). (130 CMR 520.030.)

Otherwise, individuals over the age of 65 may qualify for MassHealth Standard if they "would be institutionalized in a nursing facility, unless" they received "services ... under the Home-and

² Individuals with Breast or Cervical Cancer may be eligible for MassHealth Standard with income at or below 250% of the federal poverty level, but they must also be "younger than 65 years old." (130 CMR 505.002(F).)

Community-based Services Waiver-frail Elder ... ” (130 CMR 519.007(B)(1)(b).) If an applicant is found clinically eligible, MassHealth “determines income eligibility based solely on the applicant’s or member’s income regardless of their marital status.” Further, the income threshold is raised to 300% of the federal benefits rate, or \$2,829. (See 130 CMR 519.007(B)(2).)

Finally, MassHealth offers Medicare Savings Program (“MSP”) benefits for those with income at or below 225% of the federal poverty level. (See 130 CMR 519.010-.011.) Individuals with income greater than 210% of the federal poverty level, but below 225% of the federal poverty level are eligible for the Medicare Savings Program for Qualifying Individuals (“QI”). (130 CMR 519.011(B).)

The financial rules set out at 130 CMR 520.000 explain that MassHealth typically counts all of an individual and their spouse’s “gross earned and unearned income less certain business expenses and standard income deductions.” This “countable-income amount is compared to the applicable income standard to determine the individual’s financial eligibility.” (130 CMR 520.009(A)(1)-(2).) Weekly income is multiplied by 4.333 to determine monthly income. (130 CMR 520.009(A)(1).) There are only two income deductions for community residents with unearned income: (1) “a deduction of \$20 per individual or married couple” or (2) a larger deduction if the individual “requires assistance from a personal care attendant.” (130 CMR 520.013(A)-(B).) If the applicant’s income is over 133% of the federal poverty level prior to the PCA deduction, the applicant still receives a deductible. (130 CMR 520.013(C).)

After the \$20 standard deduction from the appellant’s unearned income, her household’s countable monthly income is \$3,651. This is equivalent to 214% of the federal poverty level. It also results in “excess monthly income” of \$3,001. Multiplied by six, this results in a deductible amount of \$18,006. Because the appellant’s countable income is below 225% of the federal poverty level, MassHealth is correct that the appellant is only eligible for the MSP for QI benefit. This appeal is DENIED. If the appellant is deemed clinically eligible for the Frail Elder Waiver, she may be able to restart MassHealth Standard coverage in the following month. (See 130 CMR 516.006.)

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.

Christopher Jones
Hearing Officer
Board of Hearings

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