

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407451
Decision Date:	7/22/2024	Hearing Date:	06/11/2024
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:  
Pro se

Appearance for MassHealth:  
Jonathan Gonzalez, Charlestown MassHealth  
Enrollment Center



*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>	Community Eligibility – over 65; Excess Assets
<b>Decision Date:</b>	7/22/2024	<b>Hearing Date:</b>	06/11/2024
<b>MassHealth's Rep.:</b>	Jonathan Gonzalez, Charlestown MassHealth Enrollment Center	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Telephonic	<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 April 18, 2024, MassHealth approved the appellant's application for benefits and determined she is eligible for the Senior Buy-In. Exhibit 1. The appellant filed this appeal in a timely manner on May 9, 2024, asserting that she should be eligible for MassHealth Standard benefits. See 130 CMR 610.015(B) and Exhibit 2. Agency action to reduce or restrict a member's benefits is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved the appellant for Senior Buy-In coverage instead of Standard.

### Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is eligible for the Senior Buy-In and not Standard benefits.

## Summary of Evidence

The appellant resides in a household of one and she is over the age of [REDACTED] she represented herself and appeared telephonically at the hearing. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center (MEC) who also appeared telephonically. The following is a summary of the testimony and evidence provided at hearing:

The MassHealth representative testified that the appellant was approved for the Senior Buy-In on April 18, 2024. The appellant's monthly income is \$1,180.20, which she receives in the form of Social Security benefits; this is 94% of the Federal Poverty Level (FPL). Exhibit 7. The MassHealth representative reported that the appellant is over the asset limit required to qualify for MassHealth Standard benefits by \$5,864.32. Testimony, Exhibit 1. The MassHealth representative stated that the reason that the appellant is over assets for MassHealth Standard is that her spouse is a recipient of MassHealth Long-Term Care (LTC) benefits. MassHealth received a LTC application for the appellant's spouse in August of 2023; that application listed the appellant as the community spouse. Testimony. Although she is under assets as the community spouse for her husband to qualify for MassHealth LTC benefits, she has more than the \$3,000.00 in assets allowed by the regulations to qualify for MassHealth Standard benefits in the community. The MassHealth representative stated that the appellant was determined to be eligible for Senior Buy-In because of the excess assets that she currently owns.

The appellant stated that although she lives in a household of one, she is legally married to her spouse. When questioned, the appellant confirmed that she and her spouse are not legally separated and continue to be legally married, although they have not resided in the same household since the late [REDACTED] Testimony. The spouse is a resident of a skilled nursing facility and is a recipient of MassHealth Long-Term Care benefits. Testimony. The appellant testified that she is the co-owner of a bank account with her spouse. She explained that during her spouse's LTC application process, her daughter asked her to become a co-owner of her spouse's bank account. In 2023, the appellant added her name to this account. The appellant testified that she agreed to add her name to her spouse's bank account because her institutionalized spouse does not have a Durable Power of Attorney document in place and the funds needed to be accessed during her spouse's MassHealth LTC application process. Testimony. The appellant testified that she did not realize that being a co-owner of her spouse's bank account would cause that asset to be counted against her and would impact her own application for MassHealth benefits in the community.

## Findings of Fact

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

1. The appellant is an adult over the age of [REDACTED] that resides in a household of one. Testimony.
2. The appellant currently earns \$1,180.20 per month in income. Testimony.
3. On April 18, 2024, MassHealth approved the appellant for Senior Buy-In coverage. Exhibit 1.
4. The appellant filed a timely appeal on May 9, 2024. Exhibit 2.
5. The appellant is legally married and co-owns a bank account with her institutionalized spouse. Testimony.
6. The appellant currently has excess countable assets in the amount of \$5,864.32 to qualify for MassHealth Standard. Exhibit 1, Testimony.

## Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged [REDACTED] or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over [REDACTED] years old, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

MSP (Buy-in) (QMB) coverage is available to Medicare beneficiaries who...(2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% of the federal poverty level. MassHealth will disregard all assets or resources when determining eligibility for MSP only benefits. 130 CMR 519.010(A)(3).

To determine a senior's eligibility for MassHealth Standard, the total countable-income amount and countable assets of the individual are compared to an income standard and asset limit. An individual who is eligible for Medicare Parts A and B must possess an income that is "less than or equal to 100% of the federal poverty level." 130 CMR 519.005(A)(1). The current MassHealth federal poverty level standards can be found on its website, and 100% of the federal poverty level for a single person is \$1,255.00 in monthly income.<sup>1</sup> A senior, in a

---

<sup>1</sup> <https://www.mass.gov/info-details/program-financial-guidelines-for-certain-masshealth-applicants-and-members>

household of one, that qualifies for MassHealth Standard may only have countable assets of \$2,000 or less, while those of a married couple living together are \$3,000 or less. 130 CMR 519.005(A)(2).

In this case, the appellant's current monthly income is \$1,180.20. That amount does not exceed 100% of the poverty level based on 2024 standards, and if only her income was counted, the appellant would be eligible for MassHealth Standard. Because the appellant is over age [REDACTED] her assets are also countable in an eligibility determination, except for Buy-In benefits. MassHealth correctly disregarded the value of the appellant's assets when determining her eligibility for the Senior Buy-In.

Although the appellant credibly testified that she is separated from her spouse and has not resided with him since the late [REDACTED] the appellant is currently the co-owner of a bank account with her spouse. According to her own testimony, the appellant became the co-owner of that bank account in the last year, to assist with her spouse's LTC application. As the co-owner residing in the community, she is the only person with access to and control of that bank account. The appellant should take steps to remove herself from that bank account if she does not want it to be considered as a part of her countable assets. The assets in this bank account are countable to the appellant and exceed the limits for MassHealth Standard.

MassHealth did not err in determining the appellant is not eligible for MassHealth Standard and rightly approved the appellant on the Senior Buy-In. Therefore, MassHealth did not err in issuing the April 18, 2024 notice, and 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.

---

Amy B. Kullar, Esq.  
Hearing Officer  
Board of Hearings

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129