

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407706
Decision Date:	7/29/2024	Hearing Date:	06/17/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kelly Souza, Taunton 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

Appeal Decision:	Denied	Issue:	Over 65; Eligibility; Income
Decision Date:	7/29/2024	Hearing Date:	06/17/2024
MassHealth's Rep.:	Kelly Souza	Appellant's Rep.:	Pro se
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 March 6, 2024, MassHealth downgraded the appellant's benefits from MassHealth Standard to the Medicare Savings Plan¹. Testimony. The appellant filed this appeal in a timely manner on May 10, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits and terminated his MassHealth Standard coverage.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant no longer qualifies for MassHealth Standard benefits.

¹ The notice reflects a program name of "Senior Buy-In," but that name has since changed. This decision will refer to the program by its current name, though the former name was used at hearing.

Summary of Evidence

The appellant is an adult over the age of [REDACTED] who resides in the community in a household of one. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center (MEC). All parties appeared by telephone. The following is a summary of the testimony and evidence provided at hearing:

The MassHealth representative testified that the appellant was open on MassHealth Standard as a disabled person under age [REDACTED] and was protected on such coverage during the Covid 19 Public Health Emergency (PHE), even after turning [REDACTED]. MassHealth ran an automatic redetermination on the appellant's case on March 6, 2024. On that day, the appellant's benefits were downgraded from MassHealth Standard to the Medicare Savings Plan due to the appellant's income being too high to qualify for Standard for persons age [REDACTED] and older. MassHealth was able to verify that as of May 25, 2024, the appellant receives \$1753.00 in monthly Social Security benefits. After deducting the \$20.00 unearned income regulatory disregard, the appellant's countable monthly income was calculated to be \$1733.00. The appellant agreed with the calculation of his income. He reported concern that termination of his MassHealth Standard benefits has caused him to lose his personal care attendant benefits.

MassHealth calculated a 6 month deductible of \$7,266.00 for the period March, 2024 to August, 2024, that would need to be met before the appellant could establish eligibility for MassHealth Standard for persons age [REDACTED] and older. (Exhibit 1). Although the appellant testified that he had PCA services in the past, MassHealth did not calculate a PCA disregard in determining the 6 month deductible. (Exhibit 1).

The MassHealth worker provided the appellant with information necessary to apply for MassHealth CommonHealth benefits for working disabled adults age [REDACTED] and older and/or the Frail Elder Waiver.

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] who resides in the community in a household of one. Exhibit 4, Testimony. He was receiving MassHealth Standard benefits prior to the issuance of the notice on appeal. *Id.*
2. On March 6, 2024, MassHealth automatically renewed the appellant's benefits. Testimony.
3. On that day, MassHealth issued a notice determining that the appellant does not qualify for MassHealth Standard due to his income and placed him on the Medicare Savings Plan. Exhibit 1.

4. The appellant filed a timely request for fair hearing on May 10, 2023. Exhibit 2.
5. The appellant receives monthly Social Security benefits totaling \$1753.00. 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 ■ 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 ■ years old, he is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

To determine a senior's eligibility for MassHealth, 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 519.002(A)(4)(c). The current MassHealth federal poverty level standards can be found on its website, and 100% of the federal poverty level for a household of one is \$1255.00 based on 2024 Income Standards.²

In calculating the income of a senior applicant, MassHealth applies the following relevant regulations:

(A) Overview.

- (1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.
- (4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through

² <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

(B) MassHealth Income Standards. Generally, financial eligibility is based on a percentage of the federal poverty level. The monthly federal poverty level standards are determined according to annual standards published in the Federal Register. The MassHealth agency adjusts these standards annually using the following formula.

- (1) Divide the annual federal poverty level income standard as it appears in the Federal Register by 12.
- (2) Multiply the unrounded monthly income standard by the applicable federal poverty level percentage.
- (3) Round up to the next whole dollar to arrive at the monthly income standards...

....

(D) Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. 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...

130 CMR 520.009(A), (B), (D).

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

(B) in determining eligibility for MassHealth Standard, a deduction that is equivalent to the difference between the applicable MassHealth deductible-income standard at 130 CMR 520.030 and 133% of the federal poverty level. This deduction includes, and is not in addition to, the \$20 disregard.

(1) This deduction from gross unearned income is allowed only for persons who

- (a) are ■ years of age and older;
- (b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and
- (c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that

is over 100% of the federal poverty level.

- (2) The MassHealth agency will redetermine eligibility without this deduction if
- (a) after 90 days from the date of the MassHealth agency eligibility approval notice, the person is not receiving personal-care attendant services paid for by the MassHealth agency or has not submitted, upon request from the MassHealth agency, proof of efforts to obtain personal-care attendant services paid for by the MassHealth agency; or
 - (b) the MassHealth agency denies the prior-authorization request for personal-care attendant services.

- (3) If countable income, prior to applying the deduction at 130 CMR 520.013(B), is greater than 133 percent of the federal poverty level, eligibility is determined under 130 CMR 519.005(B): Financial Standards Not Met.

(130 CMR 520.013).

An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” [REDACTED]

[REDACTED] The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.”

In this case, MassHealth verified, and the appellant agreed, that the appellant receives \$1753.00 in total Social Security income. Even when subtracting the \$20.00 monthly disregard, that amount exceeds 100% of the federal poverty level for a household of one based on 2024 Income Standards. The appellant therefore no longer qualifies for MassHealth Standard benefits. Thus, I find that MassHealth did not err in issuing the November 29, 2023, downgrading the appellant’s benefits from MassHealth Standard to the Medicare Savings Plan.³

For the foregoing reasons, the appeal is hereby DENIED.

Because the appellant stated that he previously received PCA services through MassHealth, he may be eligible for a PCA deduction that would reduce his total deductible amount, pursuant to 130 CMR 520.013(B). MassHealth is asked to send the appellant a PCA disregard form.

Order for MassHealth

None, other to send the appellant a PCA disregard determination form and recalculate his deductible if eligible for the deduction.

³ The appellant may still apply for MassHealth CommonHealth benefits for working disabled adults and/or the Frail Elder Waiver should he wish. This decision makes no finding regarding his eligibility for those programs.

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.

Mariah Burns
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center