

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied | Appeal Number: | 2407867 |
| Decision Date: | 7/31/2024 | Hearing Date: | 6/21/2024 |
| Hearing Officer: | Cynthia Kopka | | |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jenya Kruglansky, 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

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|---------------------------|--------------------|--------------------------|------------------------------|
| Appeal Decision: | Denied | Issue: | Eligibility, over 65, income |
| Decision Date: | 7/31/2024 | Hearing Date: | 6/21/2024 |
| MassHealth's Rep.: | Jenya Kruglansky | Appellant's Rep.: | Pro se |
| Hearing Location: | Tewksbury (remote) | 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

By notice dated May 3, 2024, MassHealth notified Appellant her coverage would downgrade from MassHealth Standard to Senior Buy-In. Exhibit 1. Appellant filed this appeal in a timely manner on May 14, 2024 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth notified Appellant her coverage would downgrade from MassHealth Standard to Senior Buy-In.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's income was too high for MassHealth Standard.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of one and is over the age of 65.

On February 6, 2024, MassHealth sent a renewal application to Appellant. MassHealth received and processed the completed renewal on February 27, 2024. Between February 27, 2024 and May 3, 2024, Appellant worked with MassHealth to assign a life insurance policy to a funeral contract to resolve her excess assets. On May 3, 2024, MassHealth notified Appellant that her coverage would downgrade from MassHealth Standard to Senior Buy-In (Medicare Savings Program or MSP). MassHealth calculated a six-month deductible of \$4,668. Exhibit 1. The determination was based on Appellant's monthly income of \$1,320.00, which exceeded 100% of the federal poverty level (FPL). *Id.*

Although Appellant indicated on her renewal that she requires personal care attendant (PCA) services, Appellant did not receive or submit a PCA supplement form. The MassHealth representative testified that she recently mailed Appellant the form which could help Appellant qualify for MassHealth Standard.

Appellant appeared by phone and testified as follows. Appellant had home care services, but these ended when her MassHealth ended. Appellant needs assistance in the home. The MassHealth representative confirmed that Appellant's MassHealth Standard was protected by this appeal with no gap in coverage. Appellant should reach out to her home care agency to reinstate services.

Findings of Fact

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

1. Appellant is in a household of one and over the age of 65.
2. Appellant's gross monthly unearned income is \$1,320.
3. In 2024, 100% of the monthly FPL for a household of one was \$1,255.
4. On May 3, 2024, MassHealth notified Appellant that her coverage would downgrade from MassHealth Standard to Senior Buy-In (MSP). MassHealth calculated a six-month deductible of \$4,668. Exhibit 1.
5. Appellant filed this appeal in a timely manner on May 14, 2024 and was eligible to retain her previous benefit level pending the outcome of the appeal. Exhibit 2.

Analysis and Conclusions of Law

The 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 income, assets, and immigration status. 130 CMR 515.003(B).

Community residents over the age of 64 who apply for MassHealth Standard must meet the requirements set forth in 130 CMR 519.005:

(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.

The regulations regarding the countable-income amount are contained in 130 CMR 520.009, set forth in relevant part:

520.009: Countable-income Amount

(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

...

(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.

For community individuals, MassHealth allows certain standard earned- and unearned-income deductions from gross income, described in 130 CMR 520.012 through 520.014. Relevant here is the “PCA disregard” set forth in 130 CMR 520.013(B):

(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 65 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*.

Individuals not eligible for MassHealth Standard may still be eligible to have MassHealth pay the individual’s Medicare premium if they qualify for a Medicaid Savings Program (MSP or Buy-in) plan. MassHealth offers three MSP coverage types: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualifying Individuals (QI).

Under 130 CMR 519.010, a member is eligible for MSP QMB if they meet the following requirements:

- (A) Eligibility Requirements. MSP (Buy-in) QMB coverage is available to Medicare beneficiaries who

(1) are entitled to hospital benefits under Medicare Part A;
(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;

(3) Effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and

(4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000 : *Health Care Reform: MassHealth: Universal Eligibility Requirements* or 130 CMR 517.000 : *MassHealth: Universal Eligibility Requirements*, as applicable.

(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B for members who establish eligibility for MSP coverage in accordance with 130 CMR 519.010(A).

(C) Begin Date. The begin date for MSP coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

Here, Appellant's monthly income is \$1,320 and her assets are under the \$2,000 limit. Less the \$20 deduction, Appellant's income is 104% of the FPL. This exceeds the qualifying limit of 100% for MassHealth Standard. However, if Appellant is deemed eligible for the PCA disregard, she will not have to meet a deductible for MassHealth Standard pursuant to 130 CMR 519.005(B) because she is below 133% of the FPL.

As Appellant had not submitted the PCA supplement at the time of this appeal, MassHealth's decision to downgrade Appellant to Senior Buy-In (MSP QMB) pursuant to 130 CMR 519.010 was not made in error. Accordingly, this appeal is denied. Appellant is encouraged to complete the PCA supplement and have her eligibility for the PCA disregard evaluated pursuant to 130 CMR 520.013(B).

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

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