

Office of Medicaid BOARD OF HEARINGS

Appellants Name and Address:



Consolidated Appeal Decision:	DENIED	Consolidated Appeal Numbers:	2407985 and 2407982
Decision Date:	9/3/2024	Hearing Date:	07/25/2024
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellants:

Pro se

Appearance for MassHealth:

Waleska Estrada – Springfield 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

Consolidated Appeal Decision:	DENIED	Issue:	Eligibility – Community Over 65
Decision Date:	9/3/2024	Hearing Date:	07/25/2024
MassHealth's Rep.:	Waleska Estrada	Appellants' Rep.:	Pro se
Hearing Location:	Springfield MEC	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 notices dated May 8, 2024, MassHealth informed Appellants (husband and wife) that their MassHealth benefits would terminate on May 22, 2024 upon determining that their gross countable household income exceeds the eligibility limit (Exhibit A). Appellants filed for an appeal with the Board of Hearings (BOH) in a timely manner on May 17, 2024 (130 CMR 610.015(B) and Exhibit A). Eligibility determinations constitute grounds for appeal (130 CMR 610.032). AID PENDING status was granted forestalling the scheduled termination of benefits pending the outcome of this appeal.

An appeal was originally scheduled for June 18, 2024, but was rescheduled upon Appellant's request (Exhibit B). A hearing was held on July 25, 2024.

Action Taken by MassHealth

MassHealth determined that Appellants no longer financially qualify for MassHealth benefits due to income and scheduled the termination of their MassHealth benefits.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it determined that Appellants no longer financially qualify for MassHealth benefits due to income and scheduled the termination of their MassHealth benefits.

Summary of Evidence

Both parties appeared by telephone. Appellants consented to the hearing officer's request to consolidate the hearings for both husband and wife into one hearing¹.

The MassHealth representative testified that the subject notice concerns the determination that Appellants are no longer eligible for MassHealth benefits because their income is over the applicable eligibility limit. According to MassHealth, Appellants are married and live together in a household of two. Both are over the age of 65. Through data matches with the Social Security administration, MassHealth determined that the husband has gross monthly Social Security income of \$4,279.00 and the wife has gross monthly Social Security income of \$314.00. MassHealth combined the income yielding a gross countable household income of \$4,593.00. This places the household at 250% of the Federal Poverty Level (FPL) which exceeds the eligibility limit of 100% FPL.

Appellants complained that they did not receive a copy of their MassHealth file as they requested prior to hearing and asserted that they were entitled to receive a copy of the file upon request. Appellants testified that MassHealth sent them only 1-page – a copy of the wife's Social Security award letter.

Appellants asserted that Masshealth had to document that how they calculated their gross countable monthly income and have failed to do so. Appellants asserted that their gross countable monthly income is not \$4,593.00 as MassHealth testified.

The hearing officer asked Appellants, what is their gross countable monthly income. In response, Appellant's indicated it is whatever the documentation they sent to MassHealth shows it to be. The hearing officer tried to explain to Appellants that they, and not MassHealth, bore the burden of proving that MassHealth's noticed action is based on an error of fact and/or law. Appellants resisted and insisted that MassHealth had to prove what their income is.

The hearing officer tried repeatedly to get Appellant's to assert what their gross countable monthly income is and they repeated failed to do so. The hearing officer then asked the husband to state what his monthly Social Security income and the husband asserted it was less

¹ Appellants also agreed to this in their hand-written rescheduling request (Exhibit B).

than \$4,279.00, but he offered nothing to support his assertion.

Findings of Fact

By a preponderance of the evidence, this record supports the following salient findings:

1. Appellants are over the age of 65.
2. Appellants resides in the community in a household of two.
3. Appellants have verified gross social security income of \$4,593.00 per month.

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

For community residents over 65, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility (520.009(A)(2)).

Pursuant to MassHealth regulation 130 CMR 519.005(A)(1), in order for a couple over the age of 65 residing in the community to be income eligible for MassHealth Standard, countable household income cannot exceed 100% of the FPL for the household size of two (\$1,704 for 2024). Pursuant to 130 CMR 520.009(D) Social Security benefits are countable for Masshealth eligibility purposes

Masshealth received the monthly Social Security amounts that the husband and wife receive directly from the Social Security Administration through a data match. According to what SSA reported to MassHealth, Appellant's received combined monthly Social Security income of \$4,593.00. This amount constitutes 250% FPL; therefore, MassHealth correctly determined that Appellants are not income eligible for MassHealth benefits.

On the matter of requesting the MassHealth file:

130 CMR 610.050: Right to Examine Case File and Documents, or "Discovery" (A) Appeals of MassHealth Determinations, states (emphasis added):

The appellant will have reasonable opportunity to examine the entire contents of the appellant's case file, as well as all documents and records to be used by the MassHealth agency at the hearing. An appointment must be scheduled in advance

with the appropriate MassHealth Enrollment Center (MEC) or MassHealth agency unit for examination of the case file.

The regulation does not require MassHealth to send Appellants anything. Instead, members are to go to the appropriate MassHealth Enrollment Center (MEC) to inspect their file. Exhibit D contains copies of the husband's request to MassHealth to have the agency send his and his wife's files. In the request, the husband asserts that he was unable to go to the MEC but provides no reason or proof of this claimed inability. Nevertheless, BOH communicated the request to the Springfield MEC (Id). The MEC replied that the income MassHealth had in its computer systems came from a data match from the Social Security Administration and the only documentation MassHealth had was a one-page copy of the wife's SSA award letter which the MEC sent to Appellant prior to hearing (id). There is no paper eligibility file on any MassHealth member. Information is gathered electronically and any documentation sent to MassHealth is scanned and entered into MassHealth computer systems. While not required to, MassHealth did respond to the husband's request and sent a copy of the only document MassHealth had in its system regarding Appellant's income, a copy of the wife's SSA award letter. There is no due process violation on MassHealth's part. Appellant was afforded more than what was due to him pursuant to the controlling regulation.

After the hearing Appellant sent requests to BOH to "nullify" the hearing and to have the record re-opened (Exhibit C). Both of these requests were denied (id). BOH has no legal basis to "nullify" a hearing. Appellant has appeal rights as set forth below. Appellant was afforded an ample opportunity to present testimony and evidence at the hearing. Despite the hearing officer's efforts, the husband would not even assert what his gross monthly household income is. Given Appellants utter lack of cooperation during the hearing and failing to make any serious attempt to verify the household income, there is no reasonable basis to believe that a record-open period would lead to anything but further delay and extending Appellant's MassHealth benefits that were being maintained during the pendency of this appeal.

For the foregoing reason, the appeal is denied.

Order for MassHealth

Remove AID PENDING and terminate MassHealth pursuant to notices of May 8, 2024.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186