

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2408117
Decision Date:	8/13/2024	Hearing Date:	06/28/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Iria Saracevic, Charlestown 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

Appeal Decision:	Denied	Issue:	Medicare Savings Programs (MSP); Verifications
Decision Date:	8/13/2024	Hearing Date:	06/28/2024
MassHealth's Rep.:	Iria Saracevic	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center (Telephone)	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 May 13, 2024, MassHealth stated that the Appellant's MassHealth benefit was ending, effective May 27, 2024, because he had failed to provide MassHealth with the required information to allow MassHealth to determine his eligibility. 130 CMR 515.008 and Exhibit 1. The Appellant filed this appeal in a timely manner on May 20, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the Appellant's MassHealth benefit for failure to provide requested information by the due date.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that it was appropriate to terminate the Appellant's benefit for failing to provide information.

Summary of Evidence

The hearing was held by telephone. The MassHealth representative testified that the Appellant's renewal was processed on February 6, 2024, and that the Appellant had until May 6, 2024, to submit requested verifications regarding his assets, and his wife's identity and income. The MassHealth representative testified that the Appellant is over the age of 65 and has a household size of two, which includes the Appellant and his wife.

The Appellant verified his identity. In his request for a fair hearing, the Appellant indicated that he was concerned about scams. The Appellant expressed that he was not going to provide information to MassHealth and that his wife's circumstances were not MassHealth's business. He stated that he wanted MassHealth to figure out his benefit.

The Appellant's MMIS indicates that his benefit, which was terminated on May 27, 2024, was Senior Buy In/Medicare Savings Program. Exhibit 4.

Findings of Fact

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

1. The Appellant is over the age of 65. Testimony and Exhibit 4.
2. The Appellant is married and has a household size of two. Testimony.
3. The Appellant was enrolled in Senior Buy In/Medicare Savings Program from May 1, 2021, until May 27, 2024. Exhibit 4.
4. The Appellant's renewal was processed on February 6, 2024, and the Appellant did not submit the requested verifications by the May 6, 2024, deadline. Testimony.

Analysis and Conclusions of Law

MassHealth regulations provide the following:

515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

130 CMR 515.008.

516.003: Verification of Eligibility Factors

The MassHealth agency requires verification of eligibility factors including income, assets, residency, citizenship, immigration status, and identity as described in 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, 130 CMR 518.000: *MassHealth: Citizenship and Immigration*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

....

(C) Request for Information Notice. If additional documentation is required, including corroborative information as described at 130 CMR 516.001(B), a Request for Information Notice will be sent to the applicant listing all requested verifications and the deadline for submission of the requested verifications.

130 CMR 516.003(C).

519.010: Medicare Savings Program (MSP) –Qualified Medicare Beneficiaries (QMB)

(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.

130 CMR 519.010.

519.011: Medicare Savings Program (MSP) – Specified Low Income Medicare Beneficiaries and Qualifying Individuals

(A) MSP (Buy-in) for Specified Low Income Medicare Beneficiaries (SLMB).

(1) Eligibility Requirements. MSP is available for Specified Low Income Beneficiaries who

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

(b) have a countable income amount (including the income of the spouse with whom they live) greater than 190% and less than or equal to 210% of the federal poverty level. MassHealth will disregard all assets or resources when determining eligibility for MSP only benefits;

(c) 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

(d) 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.

(2) Benefits. The MassHealth agency pays the cost of the monthly Medicare Part B premium for members who establish eligibility for MSP for SLMB coverage in accordance with 130 CMR 519.011(A).

(3) Begin Date. MSP for SLMB coverage, in accordance with 130 CMR 519.011(A), begins with

the month of application and may be retroactive up to three calendar months before the month of application.

(B) MSP for Qualifying Individuals (QI).

(1) Eligibility Requirements. MSP for Qualifying Individuals (QI)_coverage is available to Medicare beneficiaries who

- (a) are entitled to hospital benefits under Medicare Part A;
- (b) have a countable income amount (including the income of the spouse with whom he or she lives) that is greater than 210% of the federal poverty level and less than or equal to 225% of the federal poverty level;
- (c) 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 & 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
- (d) 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.

(2) Benefits. The MassHealth agency pays the entire Medicare Part B premium, in accordance with section 1933 of the Social Security Act (42 U.S.C. § 1396u-3), for members who establish eligibility for MSP for QI coverage in accordance with 130 CMR 519.011(B).

(3) Eligibility Coverage Period.

- (a) MSP for QI coverage, in accordance with 130 CMR 519.011(B), begins with the month of application. Coverage may be retroactive up to three months before the month of application provided
 - 1. the retroactive date does not extend into a calendar year in which the expenditure cap described at 130 CMR 519.011(B)(4) has been met; and
 - 2. the applicant was not receiving MassHealth benefits under the Medicaid state plan during the retroactive period.
- (b) Once determined eligible, a member who continues to meet the requirements of 130 CMR 519.011(B) is eligible for the balance of the calendar year. Such members are not adversely impacted by the provisions of 130 CMR 519.011(B)(4).

(4) Cap on Expenditures.

- (a) The MassHealth agency does not extend eligibility to individuals who meet the requirements of MSP for QI in accordance with 130 CMR 519.011(B), if the MassHealth agency estimates the amount of assistance provided to these members during the calendar year will exceed the state's allocation, as described in section 1933 of the Social Security Act.
- (b) The MassHealth agency gives preference to members who were eligible for MSP for Specified Low Income Medicare Beneficiaries, as described in 130 CMR 519.011, or MSP for Qualified Medicare Beneficiaries, as described in 130 CMR 519.010, in December of

the previous calendar year when determining an individual's eligibility for MSP for QI, as described in 130 CMR 519.011(B), in the subsequent calendar year.

130 CMR 519.011.

520.002: Financial Responsibility

(A) Community Residents.

(1) Spouses Living Together. In the determination of eligibility for MassHealth, the total countable-income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit, unless one spouse is covered by MassHealth under a home- and community-based services waiver, as described in 130 CMR 519.007(B): *Home- and Community-based Services Waiver-Frail Elder.*

(2) Spouses Living Apart. When spouses live apart for reasons other than admission to a medical institution, their assets and income are considered mutually available only through the end of the calendar month of separation.

130 CMR 520.002(A).

As quoted above, 130 CMR 515.008 and 130 CMR 516.003(C) require that members provide MassHealth with required information, such that MassHealth can determine an individual's eligibility. This includes income information. 130 CMR 516.003. I note that as of March 1, 2024, MassHealth will not consider asset information when determining eligibility for Medicare Savings Programs. 130 CMR 519.010(A)(3); 130 519.011(A)(1)(c), (B)(1)(c). However, by regulation, eligibility for the Medicare Savings Programs is based on "countable income (including the income of the spouse with whom they live)." 130 CMR 519.010(A)(2); 130 519.011(A)(1)(b), (B)(1)(b). Here, there was no testimony or evidence introduced to indicate that the Appellant and his wife were not spouses living together in the community, as provided for by 130 CMR 520.002(A)(1). Therefore, both the Appellant's and his wife's income is relevant to MassHealth's determination of the Appellant's eligibility for the Medicare Savings Programs. Consequently, MassHealth did not err in terminating the benefits for failure to provide the information 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.

Emily Sabo
Hearing Officer
Board of Hearings

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