

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2408313
Decision Date:	7/11/2024	Hearing Date:	06/26/2024
Hearing Officer:	Christine Therrien		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nivdarla Anselme, Charlestown



*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:	Eligibility – Over 65
Decision Date:	7/11/2024	Hearing Date:	06/26/2024
MassHealth's Rep.:	Nivdarla Anselme	Appellant's Rep.:	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center - Telephonic	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 a notice dated 5/16/24, MassHealth notified the appellant that her MassHealth benefits would terminate on 5/30/24 because her income exceeded the program limits. MassHealth calculated a deductible of \$14,778. The deductible period is 2/1/2024 to 8/1/2024. (130 CMR 519.005 and 520.028 and Exhibit 1). The appellant filed this appeal in a timely manner on 5/23/24. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth benefits because her income exceeds the program limits, and calculated a deductible for her to qualify for MassHealth.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.005, in determining that the appellant's income exceeds the program limits.

Summary of Evidence

The MassHealth representative testified that the appellant is over [REDACTED] years old. The MassHealth representative testified that a renewal application was sent to the appellant on 12/27/23 and MassHealth received the application back on 2/12/24. The MassHealth representative testified that an information request was sent to the appellant on 2/15/24. The MassHealth representative testified that on 5/15/24, MassHealth received the requested information, bank statements. The MassHealth representative testified that a termination notice, for 5/30/24, was issued on 5/16/24 because MassHealth determined the appellant was over the income limit for MassHealth Standard. The MassHealth representative testified that MassHealth determined a deductible of \$14,778. The deductible period is 2/1/24 to 8/1/24. If the appellant meets the deductible, she may qualify for MassHealth Standard. The MassHealth representative testified that the appellant's Social Security income is \$3,004.70 a month. The MassHealth representative testified that the maximum allowable income to qualify for MassHealth Standard is \$1,255 a month.

The MassHealth representative testified that the appellant also did not qualify for the Senior Buy-In program which has a maximum allowable income of \$2,824 a month.

The appellant confirmed her Social Security income. The appellant questioned why she was determined eligible for MassHealth last year. The appellant stated that her rent is \$2,600 a month and MassHealth should take into consideration the cost of rent. The appellant is concerned about losing her PCA if she no longer qualifies for MassHealth.

The appellant was also informed that she is over the maximum allowable income of \$2,829 for the Frail Elder Waiver program.¹ The appellant was told that during the Public Health Emergency, which ended last year, MassHealth was not terminating members. The appellant was advised to reach out to her local elder services for other options.

Findings of Fact

¹ The Frail Elder Waiver (FEW) is a program consisting of Home- and Community-Based Services Waivers (HCBS) which provide needed community supports to MassHealth-eligible people who would otherwise need facility-based care. FEW is an HCBS waiver program that makes such supports available to Massachusetts residents aged [REDACTED] and older. FEW supports individuals with various needs that can be met with supports ranging from basic to intensive levels. <https://www.mass.gov/frail-elder-waiver-few>.

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

1. The appellant is over ■ years of age.
2. On 12/27/23, MassHealth sent the appellant a renewal application.
3. On 2/12/24, MassHealth received the completed renewal application.
4. On 2/15/24, MassHealth sent an information request to the appellant.
5. On 5/15/24, MassHealth received the requested information, bank statements.
6. A termination notice, for 5/30/24, was issued on 5/16/24 because MassHealth determined the appellant was over the income limit for MassHealth Standard.
7. MassHealth determined a deductible of \$14,778. The deductible period is 2/1/24 to 8/1/24. If the appellant meets the deductible, she may qualify for MassHealth Standard.
8. The appellant's Social Security income is \$3,004.70 a month.
9. The maximum allowable income to qualify for MassHealth Standard is \$1,255 a month.
10. The maximum allowable income to qualify for the Senior Buy-In program is \$2,824 a month.
11. The maximum allowable income to qualify for the Frail Elder Waiver is \$2,829 a month.

Analysis and Conclusions of Law

The appellant is over ■ and lives in the community with a monthly income of \$3,004.70 from Social Security. 100 percent of the federal poverty limit for a family unit of one is \$1,255 a month.

130 CMR 519.005: Community Residents Aged 65 and Older

(A) Eligibility Requirements Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals aged ■ 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, 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, meeting a deductible as described at 130 CMR 520.028 *et seq.*, or both.

(Emphasis added)

The regulations dictate that when an individual's monthly income is above 100% of the federal poverty level a deductible is calculated. (130 CMR 520.028).

130 CMR 520.029: The Deductible Period

The deductible period is a six-month period that starts on the first day of the month of application or may begin up to three months before the first day of the month of application. The applicant is eligible for this period of retroactivity only if the applicant incurred medical expenses covered by MassHealth and was otherwise eligible.

130 CMR 520.030: Calculating the Deductible

The deductible is determined by multiplying the excess monthly income by six. Excess monthly income is the amount by which the applicant's countable-income amount as described in 130 CMR 520.009 exceeds the MassHealth deductible-income standard.²

MassHealth correctly determined the appellant's income of \$3,004.70 is over the program limits for MassHealth Standard, and the deductible of \$14,778 for the deductible period of 2/1/24 to 8/1/24 was correctly calculated. If the appellant accrued medical expenses covered by MassHealth during this period equal to or greater than \$14,778, she may become eligible for MassHealth Standard.

The appellant was also provided information about other MassHealth programs, but her income is over the limit for both the Senior Buy-In program and the Frail Elder Waiver.

Based on the foregoing, this appeal is denied.

² The unearned income, less the allowable \$20.00 unearned income disregard, is subtracted from the MA Income Standard (\$522) which is then multiplied by six to determine the individual's MassHealth deductible (\$3005 - \$20 = \$2,985 - \$522 = \$2,463 x 6 = \$14,778).

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.

Christine Therrien
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center.