

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2408895
<b>Decision Date:</b>	8/28/2024	<b>Hearing Date:</b>	07/11/2024
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Worthen, Springfield MEC

**Interpreter:**



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over Income; Over Assets; Over 65
<b>Decision Date:</b>	8/28/2024	<b>Hearing Date:</b>	07/11/2024
<b>MassHealth's Rep.:</b>	Kelly Worthen	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<b>Aid Pending:</b>	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 approved the appellant for the Senior Buy-in benefit, effective May 27, 2024, based upon her countable income and assets, implicitly denying MassHealth Standard coverage. (Ex. 1; 130 CMR 520.002; 520.003.) The appellant filed this timely appeal on May 31, 2024. (Ex. 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth received a review form from appellant, processed the form and downgraded appellant from his Standard coverage and approved appellant for the Senior Buy-in coverage.

### Issue

The appeal issue is MassHealth was correct, pursuant to 130 CMR 519.000 and 520.000, in determining that the appellant is ineligible for MassHealth Standard due to being over assets and over income.

### Summary of Evidence

The MassHealth worker (worker) and appellant both appeared by phone. The hearing commenced, parties were sworn and documents were marked as evidence. The worker testified to the following: The appellant, who is over the age of 65, was previously approved for MassHealth Standard. A review form was received from appellant by MassHealth, processed and appellant was downgraded to Senior Buy In due to being over assets and over income. She stated appellant was in a household of 2. She stated appellant has a monthly income of \$989 from Social Security and his wife has a monthly income of \$2,120 from Social Security. Appellant's total monthly income is \$3,109. The worker stated as a household of 2, appellant could not exceed 100% of the Federal Poverty Level, which is \$1,704. Appellant's monthly income exceeds that amount. Regarding appellant's assets, the limit on assets is \$3,000. The worker stated appellant had assets totaling \$130,930.39. Subtract the limit for a household of 2 of \$3,000 and appellant has excess assets of \$127,930.39. (Testimony; Ex. 1).

Appellant had no questions for the worker. He did not dispute MassHealth's calculations of his assets and income. He stated he is undergoing cancer treatment. He stated there were five main reasons he appealed and he submitted a letter, with attachments, outlining those reasons. (Ex. 4). He and the worker discussed the reasons for appeal and the worker suggested he apply for a Frail Elder waiver and suggested he submit to MassHealth his medical expenses to meet any deductible available to him.

## **Findings of Fact**

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

1. The appellant, who is over the age of 65, was previously eligible for MassHealth Standard.
2. MassHealth received a review form from appellant, processed it and determined appellant was over assets and over income and only eligible for Senior Buy In. (Testimony).
3. Appellant is in a household of 2. (Testimony).
4. Appellant has a monthly income of \$989 from Social Security and his wife has a monthly income of \$2,120 from Social Security. (Testimony).
5. Appellant's total monthly income is \$3,109. (Testimony).
6. Appellant's household of 2 cannot exceed 100% of the Federal Poverty Level, which is \$1,704. (Testimony).
7. The allowable limit on assets is \$3,000. (Testimony; 130 CMR 520.003 (A)(2)).

8. Appellant has excess assets of \$127,930.39, after subtracting the allowable limit of \$3,000. (Testimony; Ex. 1).

## Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). Moreover, "[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings." Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983).

### Assets

The worker asserts appellant is over assets and not qualified for Standard. She stated appellant and his wife have assets totaling \$130,930.39. (Testimony; Ex. 1). When you subtract the asset limit of \$3000 for a household of 2, appellant is over assets by \$127,930.39.

#### 520.003: Asset Limit

(A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits:

- (1) for an individual – \$2,000; and
- (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) – \$3,000.

The record is clear that appellant is over assets pursuant to the regulations.

### Income

The worker testified to the income of appellant and his wife. Appellant receives \$989 a month from Social Security. His wife receives \$2,120 a month from Social Security. Together, the household has a monthly income of \$3,109.

The requirements for receiving MassHealth Standard for individuals over 65 who are living in the community are:

#### 519.005: Community Residents 65 Years of Age and Older

(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.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

The countable-income amount, as defined in 130 CMR 520.009: *Countable-Income Amount*, of the individual or couple must be less than or **equal to 100 percent of the federal poverty level**. One hundred percent of the monthly Federal Poverty Level for a household of 2 is \$1,704. Appellant's household monthly income is \$3,109.

The record is clear that appellant is over assets pursuant to the regulations.

Unfortunately, appellant exceeds the asset and income requirements and therefore, 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.

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Thomas Doyle  
Hearing Officer  
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-418