

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2408907
<b>Decision Date:</b>	08/29/2024	<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:**  
David Kang, 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 65
<b>Decision Date:</b>	08/29/2024	<b>Hearing Date:</b>	07/11/2024
<b>MassHealth's Rep.:</b>	David Kang	<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 23, 2024, MassHealth decided appellant "can get benefits," finding appellant eligible for "Senior Buy In". (Ex. 1). The appellant filed this appeal in a timely manner on June 3, 2024. (130 CMR 610.015(B); Ex. 2).<sup>1</sup> Reducing the level of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined appellant is not eligible for MassHealth Standard because his income was too high.

### Issue

The issue is whether MassHealth was correct in finding appellant was ineligible for Standard due to being over income.

### Summary of Evidence

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<sup>1</sup> By date stamp on the Fair Hearing Request Form, the Board of Hearings received the request on June 5, 2024. (Ex. 2).

Appellant and the MassHealth worker (worker) appeared by phone. The hearing commenced, both parties were sworn and documents marked as evidence. The worker testified to the following. Appellant completed a renewal in May 2024. Appellant was appealing a notice that approved appellant for Senior Buy In. The worker stated appellant is in a household of 2 and his monthly income totaled \$1,936. The income was from appellant's Social Security of \$547 a month and his wife's countable income from employment of \$1,389 a month. The worker stated that appellant was at 113.6% of the Federal Poverty Level (FPL) and cannot exceed 100% of the FPL or \$1,704 a month. The worker stated that he spoke with appellant by phone before the hearing and told appellant he could request PCA services. Appellant said he did not need PCA services. The worker told appellant he could apply for a Frail Elder Waiver but appellant told him he did not want that option. The worker stated that he sent appellant a disability supplement to fill out, but appellant told him he is not disabled. The worker testified that, before his renewal, appellant had MassHealth Standard with Buy In. (Testimony).

Appellant had no questions for the worker. He reiterated that he was not interested in the options given to him by the worker when they spoke before the hearing. He stated he had a lot of medical problems. He stated he could not see certain doctors because they do not take Senior Buy In. (Testimony). The worker explained to appellant that because he had Medicare, that was his primary insurance and MassHealth was a secondary insurance. (Testimony).

## **Findings of Fact**

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

1. Appellant completed a renewal in May 2024. (Testimony).
2. Appellant was approved for Senior Buy In. (Testimony; Ex. 1).
3. Appellant previously had MassHealth Standard with Buy In. (Testimony).
4. Appellant is over the age of 65, in a household of 2 and his total monthly income is \$1,936. (Testimony).
5. 100% of the federal poverty level is \$1,704 a month for a household of two. (Testimony; 2024 MassHealth Income Standards and Federal Poverty Guideline found at [mass.gov](https://www.mass.gov)).

## **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).

The regulations at 130 CMR 515.000 through 520.000 provide the requirements for MassHealth eligibility for persons aged 65 and older. (130 CMR 515.002). A non-institutionalized person aged 65 and older may establish eligibility for MassHealth Standard coverage if the countable income is less than or equal to 100% of the federal poverty level. (130 CMR 519.005). 100% of the federal poverty level for a household of two is \$1,704.00 per month. Appellant's income totals \$1,936.00 per month. This amount exceeds 100% of the federal poverty level for a household of two. Appellant is not financially eligible for MassHealth Standard at this time.

The program for which appellant has been approved, is governed by 130 CMR 519.010:

**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. (Emphasis added)

On this record, appellant cannot show the invalidity of this MassHealth determination. Therefore, appellant has not met the burden by a preponderance of evidence to show the invalidity of MassHealth's decision that appellant is eligible for Senior Buy In. 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, 413-785-4186