

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2409205
<b>Decision Date:</b>	9/6/2024	<b>Hearing Date:</b>	07/18/2024
<b>Hearing Officer:</b>	Casey Groff		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Michael Richelson, Tewksbury 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over 65; MSP Benefit; Coverage Start Date
<b>Decision Date:</b>	9/6/2024	<b>Hearing Date:</b>	07/18/2024
<b>MassHealth's Rep.:</b>	Michael Richelson	<b>Appellants' Rep.:</b>	Daughters
<b>Hearing Location:</b>	Board of Hearings (Remote)	<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 5/28/24, MassHealth approved Appellants' application for the Medicare Savings Program (MSP) benefit with an effective coverage start date of 6/1/24. See Exh. 1. On 6/11/24, Appellants' daughter filed a timely appeal of the notice on Appellants' behalf to challenge the MSP coverage start date. See 130 CMR 610.015(B) and Exhibits 2 and 3. On 6/11/23, the Board of Hearings (BOH) notified Appellants that it would need to dismiss the appeal because the fair hearing requests did not contain their signatures or demonstrate authorization for a representative to appeal the matter on their behalf. See Exh. 4 and 130 CMR 610.034-035. On 6/17/24, BOH received an updated fair hearing request with Appellants' signatures and a designation for their daughters to act as their appeal representatives for the hearing. See Exh. 5. Limits to the scope of assistance is valid grounds for appeal. See 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth approved Appellants for the MSP-QMB benefit with an effective start date of 6/1/24.

### Issue

The appeal issue is whether MassHealth was correct in approving Appellants for the MSP benefit starting 6/1/24.

## Summary of Evidence

A MassHealth benefits and eligibility worker appeared at the hearing and testified that Appellants are a married couple in a household size of two (2). They are both over the age of [REDACTED] and are Medicare recipients. On 5/22/24, MassHealth received an application on behalf of Appellants, seeking eligibility for benefits offered through MassHealth's Medicare Savings Program (MSP). The MassHealth representative explained that MassHealth offers three types of MSP benefits; the most comprehensive of which is for Qualified-Medicare Beneficiaries (QMB). To be considered a QMB, the individual must have income at, or below, 190% of the FPL. MassHealth has two additional MSP benefits for qualifying individuals with income exceeding 190% of the FPL.

According to information reported in the application, Appellants have a combined total gross income of \$2,552 per month. For a household size of two (2), this places them at 148.6% of the federal poverty level (FPL). Through a notice dated 5/28/24, MassHealth informed Appellants that they were both approved for the MSP-QMB benefit, effective 6/1/24. See Exh. 1. The notice advised Appellants that under this benefit, MassHealth will pay the Medicare Part A and Part B premiums, deductibles, and coinsurance for each eligible member, pursuant to 130 CMR 519.010. Id.

Appellants' two daughters appeared at hearing and asserted that they were appealing the 5/28/24 notice with the objective of seeking an earlier benefit start date. Appellants' representatives testified that their father was hospitalized twice in [REDACTED] causing him to incur numerous medical expenses and bills. One daughter testified that she was familiar with MassHealth's practice of considering retroactive coverage three months from the date of long-term care application. As such, she wanted to see if MassHealth could implement a similar approach with respect to Appellants' MSP benefits, as this would help offset some of the accrued medical expenses that pre-dated 6/1/24. Appellants representatives did not dispute the factual information testified to by MassHealth and agreed that the Appellants' reported total income of \$2,552 was accurate.

In response, the MassHealth representative testified that with respect to Appellants' MSP-QMB benefit, MassHealth regulations require coverage to start the first day of the calendar month *after* eligibility is approved. Because MassHealth approved their application on 5/28/24, Appellants were not eligible for a start date earlier than 6/1/24. The MassHealth representative explained that the two other MSP coverage-types do allow for retroactive coverage start dates, however, these are less comprehensive than the QMB benefit and limited to qualifying individuals with income exceeding 190% of the FPL.

## Findings of Fact

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

1. Appellants are a married couple in a household size of two (2); they are both over the age of [REDACTED] and are Medicare recipients.
2. On 5/22/24, MassHealth received an application on behalf of Appellants, seeking eligibility for MSP benefits.
3. Appellants have a combined total gross income of \$2,552 per month, placing them at 148.6% of the FPL.
4. Through a notice dated 5/28/24, MassHealth informed Appellants that they were both approved for the MSP-QMB benefit, with an effective coverage start date of 6/1/24.

## Analysis and Conclusions of Law

Once an application for benefits is received, MassHealth will typically determine eligibility for the most comprehensive coverage type for which the applicant is eligible.<sup>1</sup> See 130 CMR 519.001(C). For individuals, like Appellants, who are aged [REDACTED] and older, the MassHealth coverage types are as follows:

- (1) MassHealth Standard;
- (2) MassHealth Limited;
- (3) Medicare Savings Programs (MSP) for Qualified Medicare Beneficiaries (QMB) (Senior Buy-In);
- (4) Medicare Savings Programs (MSP) for Specified Low Income Medicare Beneficiaries and Qualifying Individuals (Buy-In);
- (5) MassHealth CommonHealth; and
- (6) MassHealth Family Assistance.

130 CMR 519.001(B).

In this case, MassHealth determined that Appellants were eligible for the MSP-QMB benefit. The categorical requirements and financial standards for this benefit are described in 130 CMR 519.010, and state, in relevant part, the following, with emphasis added:

(A) Eligibility Requirements. MSP (Buy-in) QMB coverage is available to Medicare beneficiaries who

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<sup>1</sup> If the applicant submits the “Medicare Savings Program Application,” as Appellants did here, MassHealth will render an eligibility determination only with respect to the individuals eligibility for MSP benefits.

- (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;***

.....

(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.***

In the instant case, it is undisputed that Appellants are in a household size of two (2) with a combined monthly gross income of \$2,772. This places them at 148.6% of the FPL, rendering them eligible for the MSP-QMB benefit. As such, MassHealth is required to follow the aforementioned regulatory provisions of 130 CMR 519.010 in determining the appropriate benefit start date. The evidence shows that after receiving Appellants' application on 5/22/24, MassHealth rendered a timely eligibility determination on 5/28/24. See Exh. 1. Pursuant to subsection (C) above, MassHealth correctly determined that Appellants' benefits would begin on 6/1/24, as it was the "first day of the calendar month following the date of [MassHealth's May 28<sup>th</sup>] eligibility determination." 130 CMR 519.010.

Appellants seek an earlier benefit start date to help cover medical expenses incurred prior to 6/1/24. While Appellants position is understandable, there is no legal authority to adjust the start date. The language in subsection (C), above, is unambiguous and does not set forth any exception circumvent this requirement. It is further noted that the retroactive MSP coverage implementation rules, applicable to Specified Low Income Medicare Beneficiaries (SLMB) and Qualifying Individuals (QI), are not applicable to Appellants as QMBs. Whereas MSP-QMB coverage is governed under 130 CMR 519.010, MSP-SLMB and MSP-QI benefits are separately governed under 130 CMR 519.011 and offer a less comprehensive benefit. Moreover, the latter two MSP coverage types are limited to individuals with income *exceeding* 190% of the FPL. As Appellants were appropriately deemed eligible for the MSP-QMB benefit, MassHealth did not err in approving Appellants coverage to start on 6/1/24, in accordance with 130 CMR 519.010(C).

Based on the foregoing, this 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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Casey Groff  
Hearing Officer  
Board of Hearings

CC:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957