

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part, Denied in part	Appeal Number:	2409333
Decision Date:	09/26/2024	Hearing Date:	07/30/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Mul Oeur, Taunton 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:	Approved in part, Denied in part	Issue:	Community Eligibility—Over 65
Decision Date:	09/26/2024	Hearing Date:	07/30/2024
MassHealth's Rep.:	Mul Oeur	Appellant's Rep.:	Pro se
Hearing Location:	Taunton 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 23, 2024, MassHealth notified the Appellant that his coverage would change to Medicare Savings Plan—Specified Low Income Medicare Beneficiaries (SLMB), effective June 6, 2024, as his income was too high to qualify for MassHealth Standard or Medicare Savings Plan—Qualified Medicare Beneficiaries. 130 CMR 519.002, 130 CMR 519.010, and Exhibit 1. The Appellant filed this appeal in a timely manner on June 12, 2024. *See* 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 found that that the Appellant's income is too high for MassHealth Standard or Medicare Savings Plan—Qualified Medicare Beneficiaries and that the Appellant could maintain MassHealth Standard benefits through meeting a deductible of \$11,238 for the period of May 23, 2024 to December 1, 2024.

Issue

Was MassHealth correct in determining that the Appellant is not eligible for MassHealth Standard or Medicare Savings Plan—Qualified Medicare Beneficiaries due to his income? Additionally, is the Appellant eligible for MassHealth CommonHealth based on his history as a disabled working adult?

Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is over the age of 65 and has a household size of one. The MassHealth representative reported that the Appellant's household income is \$2,415, based on the Appellant's renewal, received May 23, 2024. The MassHealth representative testified that the Appellant's income is \$210/month from a pension, and \$2,205/month from Social Security. The MassHealth representative testified that 100% of the federal poverty level for a household of one is \$1,255. The MassHealth representative testified that with the unearned income deduction of \$20, the Appellant's countable monthly income is \$2,395, which is 190.8% of the federal poverty level and because that is more than 190% of the federal poverty level, he is not eligible for Medicare Savings Plan—Qualified Medicare Beneficiaries. The MassHealth representative testified that the Appellant is eligible for SLMB.

The Appellant verified his identity. The Appellant testified that he has [REDACTED] and heart problems, and that he has not been able to work since March 2024. The Appellant explained that his income is not sufficient for the cost of living. Prior to the age of 65, the Appellant had been enrolled in MassHealth CommonHealth as a disabled working adult for more than 10 years. Exhibit 4 (aid category 52 = CommonHealth disabled working adult).

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 has a household size of one. Testimony.
3. The Appellant has a monthly household income of \$2,415, based on a pension of \$210 and Social Security of \$2,395. Testimony and Exhibit 1.
4. Prior to the age of 65, the Appellant had been enrolled in MassHealth CommonHealth as a disabled working adult for more than 10 years. Exhibit 4.

Analysis and Conclusions of Law

In evaluating financial eligibility for MassHealth Standard, the regulations at 130 CMR 519.005 provide:

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C),¹ 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% 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).

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).

¹ 130 CMR 519.005(C) details the eligibility requirements for parents or caretaker relatives of a child younger than 19 years old.

(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.

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.

130 CMR 519.011(A).

519.012: MassHealth CommonHealth

(A) Working Disabled Adults.

- (1) Eligibility Requirements. MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age and older in the same manner as it is available to those younger than 65 years old. This means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3), and (5) to be eligible for CommonHealth.
- (2) Other Provisions. The following provisions apply to CommonHealth applicants and members 65 years of age and older: 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2),

and (N).

....

(C) Financial Eligibility. Financial eligibility for all MassHealth CommonHealth applicants and members is based on the regulations in 130 CMR 506.000: Health Care Reform: MassHealth: Financial Requirements. 130 CMR 520.000: MassHealth: Financial Eligibility does not apply.

(D) Medicare Premium Payment.

(1) MassHealth also pays the cost of the monthly Medicare Part B premium through the Qualifying Individual program under 130 CMR 519.011(B) on behalf of members who meet the requirements of 130 CMR 505.004: MassHealth CommonHealth and who have modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 135% of the FPL.

(2) The coverage described in 130 CMR 505.004(L)(1) begins on the first day of the month following the date of the MassHealth eligibility determination and may be retroactive up to three months prior to the date the application was received by MassHealth.

130 CMR 519.012(A), (C), (D).

520.013: Community Unearned-income Deductions

In addition to business expenses described at 130 CMR 520.010, the MassHealth agency allows the deductions listed below from the total gross unearned income. These deductions do not apply to the income of a community spouse described at 130 CMR 520.026(B). The deductions allowed from the total gross unearned income are the following:

(A) a deduction of \$20 per individual or married couple; or

130 CMR 520.013(A).

The MassHealth regulations at 130 CMR 501.001 define the federal poverty level as, “income standards issued annually in the *Federal Register* to account for the last calendar year's increase in prices as measured by the Consumer Price Index.” For 2024, the *Federal Register* states that the federal poverty level for a household of one is \$1,255/month.

Next, MassHealth Eligibility Operations Memorandum (EOM) 23-19 (August 2023) provides:

Background

The Centers for Medicare and Medicaid Services recently approved MassHealth’s 1115 Demonstration Waiver. This waiver includes new eligibility guidance for people who are age 65 and older and have had MassHealth CommonHealth for at least ten years.

Updated Rules for CommonHealth Members Aged 65 and Older

Members who were enrolled in MassHealth CommonHealth for at least ten years are now eligible to remain on MassHealth CommonHealth after turning 65 whether they work or not. These members must submit a renewal form for seniors over age 65 (SACA-2-ERV). If the member does not meet the criteria for MassHealth Standard per 130 CMR 519.005(A): *Eligibility Requirements* they will remain in CommonHealth.

EOM 23-19.

Therefore, because there is no dispute that the Appellant's household income is greater than 100% of the federal poverty level or \$1,255, the Appellant is not financially eligible for MassHealth Standard unless he meets the deductible provided for in 130 CMR 519.005(B). 130 CMR 519.005(A)(1). Accordingly, the Appellant is not financially eligible for MassHealth Standard.

As provided for in 130 CMR 520.013, there is a \$20 deductible for unearned income; the Appellant's pension and Social Security income are considered unearned income. 130 CMR 520.009(D). Therefore, the Appellant's countable income is \$2,395 (\$2,415-\$20), which is 190.8% of the federal poverty level ($\$2,395 / 1,255 = 190.8\%$). Thus, the Appellant's income is greater than 190% of the federal poverty level, and he does not qualify for MSP-QMB, and MassHealth did not err in finding that the Appellant qualifies for MSP-SLMB.

However, as provided for in EOM 23-19, the Appellant was enrolled in MassHealth CommonHealth for at least 10 years, prior to turning 65. Therefore, the Appellant is eligible to remain on MassHealth CommonHealth regardless of whether he works or not. Based on his income being greater than 150% of the federal poverty level, the Appellant may owe a CommonHealth premium in accordance with 130 CMR 506.011, between \$21-35 depending on whether it is a supplemental premium. 130 CMR 506.011(B)(2)(b), (c).

The appeal is approved, regarding the Appellant's eligibility for MassHealth CommonHealth.

In summary, the appeal is denied with regard to the Appellant's eligibility for MassHealth Standard and MSP-QMB. The appeal is approved with regard to the Appellant's eligibility for MassHealth CommonHealth.

Order for MassHealth

Approve the Appellant for MassHealth CommonHealth. Calculate and notify the Appellant in writing of his CommonHealth premium.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Emily Sabo
Hearing Officer
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780