

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409850
Decision Date:	08/02/2024	Hearing Date:	07/29/2024
Hearing Officer:	David Jacobs		

Appearances for Appellant:



Appearances for MassHealth:

Jenya Kruglansky, Tewksbury MEC



***Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171***

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Over Income (Over 65)
Decision Date:	08/02/2024	Hearing Date:	07/29/2023
MassHealth Rep.:	Jenya Kruglansky	Appellant Rep.:	Pro se
Hearing Location:	Board of Hearings (Remote)		

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 June 4, 2024, MassHealth notified the appellant that your coverage will change to Senior Buy In because your income and/or assets are too high to get MassHealth Standard (Exhibit 1). The appellant filed a timely appeal on June 21, 2024 (Exhibit 2). The denial of assistance is valid grounds for appeal (130 CMR 610.032(A)).

Action Taken by MassHealth

MassHealth notified the appellant that your coverage will change to Senior Buy In because your income and/or assets are too high to get MassHealth Standard

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth Standard benefits?

Summary of Evidence

The MassHealth representative appeared at the hearing by telephone and testified in summary as follows: The appellant is a man over 65 living in the community. His wife lives in a facility. On June 4, 2024, the appellant was sent a notice that his coverage was changing to Senior Buy In because his income and/or assets are too high to get MassHealth Standard. She explained that this denial was due to the appellant's income being over 100% of the Federal Poverty Level (FPL), which is the limit for MassHealth Standard for individuals over 65. According to MassHealth records the appellant's household has monthly social security earnings of \$2,702.00 after the income disregard of \$20.00. This puts him over 100% of the FPL, which at the time of the hearing was \$1,255.00.

The appellant appeared at the hearing by telephone and testified that the income MassHealth has on record for his household is incorrect. The \$2,702.00 is his spouse's social security income which goes straight to the nursing home. He then asked whether his spouse's income could be counted against him for the purposes of MassHealth eligibility considering it all goes to the facility. The MassHealth representative was not sure of the answer and requested a record open period to investigate the question. The hearing officer agreed, and the record was held open until August 5, 2024.

On July 29, 2024, the MassHealth representative sent an email explaining her findings to the appellant's question (Exhibit 4, pgs. 1-2). She explained that she discovered that the appellant has his own social security income in the gross amount of \$1,392.00. Therefore, it is unnecessary to answer the appellant's question as a household of 1 with income of \$1,372.00 after the \$20 earnings disregard is by itself over the 100% FPL limit.

The hearing officer gave the appellant until August 1, 2024 to either accept or respond to MassHealth's findings. The appellant gave no response by the August 1, 2024 deadline.

Findings of Fact

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

1. On June 4, 2024, the appellant was notified that his coverage will change to Senior Buy In Because your income and/or assets are too high to get MassHealth Standard
2. The appellant is over 65.
3. The appellant has gross monthly social security income in the amount of \$1,392.00
4. The appellant lives in the community. The appellant's spouse lives in a facility.
5. 100% of the FPL for a household of 1 is \$1,255.00

6. The appellant did not respond to MassHealth's findings by the deadline date of August 1, 2024.

Analysis and Conclusions of Law

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% 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)).

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; ...

(130 CMR 520.013(A)).

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; ...

Here, it is uncontroverted that the appellant is a household of 1 and has gross monthly social security income of \$1,392.00, which after an earnings disregard of \$20 is \$1,372.00 (Exhibit 4, pgs. 1-2). This amount is more than 100% of the FPL, which at the time of the hearing is

\$1,255.00 for a household of 1 (Exhibit 4, pgs. 1-2). During the hearing the appellant asked whether his spouse's social security income, which goes straight to the nursing home, could be considered in determining his household income. However, this question is unnecessary to answer as the appellant's income by itself places him over the limits of MassHealth Standard for individuals over 65 per 130 CMR 519.005(A).

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.

David Jacobs
Hearing Officer
Board of Hearings

cc: Tewksbury MEC