

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409925
Decision Date:	9/23/2024	Hearing Date:	07/29/2024
Hearing Officer:	Mariah Burns	Record Open to:	08/26/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Alba Beltre, Tewksbury MassHealth Enrollment
Center



*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:	Denied	Issue:	Over 65; Eligibility; Income
Decision Date:	9/23/2024	Hearing Date:	07/29/2024
MassHealth's Rep.:	Alba Beltre	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 6, 2024, MassHealth downgraded the appellant's benefits from MassHealth Standard to the Medicare Savings Plan as a Qualified Medicare Beneficiary (MSP-QMB). 130 CMR 519.002 and Exhibit 1. The appellant filed this appeal in a timely manner on June 24, 2024. See 130 CMR 610.015(B) and Exhibit 2. Agency action related to scope and amount of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits and terminated her MassHealth Standard coverage.

Issue

The appeal issue is whether MassHealth properly downgraded the appellant's benefits from MassHealth Standard to the MSP-QMB.

Summary of Evidence

The appellant is an adult over the age of 65 who resides in the community in a household of one. MassHealth was represented by a worker from the Tewksbury MassHealth Enrollment Center (MEC) who also appeared telephonically. All parties appeared by telephone. The following is a summary of the testimony and evidence provided at the hearing:

The MassHealth representative testified that MassHealth was able to automatically renew the appellant's benefits on May 6, 2024. On that day, the appellant's benefits were downgraded from MassHealth Standard to the Medicare Savings Plan with an effective date of May 20, 2024, due to the appellant's income being too high to qualify for Standard. MassHealth was able to verify that the appellant receives \$2136.00 in monthly Social Security benefits. When applying the \$20.00 unearned income regulatory disregard, the appellant's monthly income was calculated to be \$2116.00. The appellant is also under the MassHealth senior asset limit of \$2000.00.

The appellant agreed with the calculation of her income. She reported that she has applied for the Frail Elder waiver and her determination is pending. The record was kept open while the appellant's Frail Elder Waiver application was ongoing. On September 3, 2024, the MassHealth representative reported that the appellant was approved for MassHealth Standard through the Frail Elder Waiver with an effective start date of August 1, 2024, leaving a gap in the appellant's MassHealth Standard coverage from May 20, 2024, to July 31, 2024.

Findings of Fact

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

1. The appellant is an adult over the age of 65 who resides in the community in a household of one. Exhibit 4, Testimony. She was receiving MassHealth Standard benefits prior to the issuance of the notice on appeal. *Id.*
2. On May 6, 2024, MassHealth automatically renewed the appellant's benefits. Testimony.
3. On that day, MassHealth issued a notice determining that the appellant does not qualify for MassHealth Standard due to her income and placed her on the Medicare Savings Plan as a Qualified Medicare Beneficiary with a start date of May 20, 2024. Exhibit 1.
4. The appellant filed a timely request for fair hearing on May 10, 2023. Exhibit 2.
5. The appellant receives monthly Social Security benefits totaling \$2136.00. Exhibit 1, Testimony.

6. Since the hearing, the appellant has been deemed eligible for MassHealth Standard through the Frail Elder Waiver and has an effective start date of August 1, 2024. Exhibit 5.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

To determine a senior's eligibility for MassHealth Standard, the total countable-income amount and countable assets of the individual are compared to an income standard and asset limit. An individual who is eligible for Medicare Parts A and B must possess an income that is "less than or equal to 100% of the federal poverty level." 130 CMR 519.002(A)(4)(c). Meanwhile, an individual may qualify for the MSP-QMB if they have "countable income...that is less than or equal to 190% of the federal poverty level." 130 CMR 519.010(A). The current MassHealth federal poverty level standards can be found on its website, and 100% of the federal poverty level for a household of one is \$1255.00 in monthly income based on 2024 Income Standards.¹ By those same standards, 190% of the federal poverty level for a household of one is \$2385.00 per month.

In calculating the income of a senior applicant, MassHealth applies the following relevant regulations:

(A) Overview.

- (1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.

¹ <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

(4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

(B) MassHealth Income Standards. Generally, financial eligibility is based on a percentage of the federal poverty level. The monthly federal poverty level standards are determined according to annual standards published in the Federal Register. The MassHealth agency adjusts these standards annually using the following formula.

- (1) Divide the annual federal poverty level income standard as it appears in the Federal Register by 12.
- (2) Multiply the unrounded monthly income standard by the applicable federal poverty level percentage.
- (3) Round up to the next whole dollar to arrive at the monthly income standards.

....

(D) Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. Unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income...

130 CMR 520.009. The current standard unearned-income deduction for an individual or married couple is \$20 per month. *See Id.* at 520.513(A). An appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon "evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency's interpretation of its rules, policies and regulations."

In this case, MassHealth verified, and the appellant agreed, that the appellant receives \$2136.00 in total Social Security income. Even when subtracting the \$20.00 monthly disregard, that amount exceeds 100% of the federal poverty level for a household of one, but is less than 190%, based on 2024 Income Standards. Thus, based on the information available to MassHealth at the time of the appellant's renewal application, MassHealth did not err in issuing the May 6, 2024, notice downgrading the appellant's benefits from MassHealth Standard to the MSP-QMB. It should be noted that this decision has no impact on the appellant's eligibility for MassHealth Standard through the Frail Elder Waiver as of August 1, 2024. If the appellant believes she is entitled to

an earlier start date for that benefit, she must file a fair hearing request for the notice approving her Frail Elder Waiver benefits.

For the foregoing reasons, this appeal is hereby 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.

Mariah Burns
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290