

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409990
Decision Date:	9/18/2024	Hearing Date:	8/2/2024
Hearing Officer:	Cynthia Kopka	Record Open to:	8/16/2024

Appearances for Appellant:



Appearance for MassHealth:

Kelly Worthen, Springfield



*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:	Community eligibility, over 65, income
Decision Date:	9/18/2024	Hearing Date:	8/2/2024
MassHealth's Rep.:	Kelly Worthen	Appellant's Reps.:	Pro se, with son
Hearing Location:	Springfield (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

By notice dated June 18, 2024, MassHealth notified Appellant that her MassHealth deductible had changed due to a change in income. Exhibit 1. Appellant filed this appeal in a timely manner on June 26, 2024. Exhibit 2. 130 CMR 610.015(B). Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth notified Appellant that her MassHealth deductible had changed due to a change in income.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant must meet a deductible to be eligible for MassHealth Standard.

Summary of Evidence

MassHealth was represented at hearing by phone by an eligibility representative. Appellant appeared by phone with her representative. The hearing record was held open for both parties to submit additional information requested by the hearing officer. A summary of testimony and submitted documentation follows.

Appellant, who is over the age of [REDACTED] and disabled, had been on MassHealth Standard since February 1, 2019. Appellant's MassHealth Standard benefit automatically renewed in April 2024. At the time, Appellant's income was reported to be \$1,107 per month. The MassHealth representative testified that in order to be eligible for MassHealth Standard, an individual's income must be at or below 100% of the federal poverty level (FPL), which was \$1,255 for a household size of one in 2024.

On April 22, 2024, MassHealth notified Appellant that her MassHealth Standard would end effective May 6, 2024 because she had more countable income than MassHealth Standard allows. Exhibit 6. Appellant was approved for Health Safety Net effective April 22, 2024. *Id.* This notice lists Appellant's income as \$3,333.00. *Id.*

MassHealth received updated information from Social Security which prompted the income change notice issued on June 18, 2024. Exhibit 1. This notice listed Appellant's total unearned income at \$3,333.70 per month. *Id.* MassHealth calculated a six-month deductible \$15,872. *Id.* On June 25, 2024, MassHealth issued a notice that Appellant's assets exceeded MassHealth's limit, having counted the value of real estate. Exhibit 4 at 7-9. On June 28, 2024, MassHealth appeared to issue a correction, notifying Appellant that her income, not assets, exceeded MassHealth's limit. *Id.* at 11-13. Finally, on July 15, 2024, MassHealth notified Appellant that she was eligible for MassHealth's CommonHealth benefit effective June 11, 2024 with a monthly premium of \$57.20. *Id.* at 15. This notice informed Appellant that if she does not want this coverage, she has 60 days to request to have the benefit cancelled or she will be responsible for any premiums assessed. *Id.*

Appellant's representative asked the MassHealth questions about the due diligence that she did in processing the case. Appellant's representative asserted that there are different rules for different individuals based on their circumstances, not just income. Appellant's representative asked whether MassHealth considered that Appellant is disabled and receives Supplemental Security Income (SSI), which is not countable under 130 CMR 520.015(A). Appellant's representative sought to ask questions about the laws and regulations under which the MassHealth representative made the determination. Appellant's representative disagreed with the hearing officer directing the hearing towards a presentation of facts to consider for determination, arguing that the hearing officer must follow regulatory procedures and a code of ethics.

Appellant's representative asserted that MassHealth did not follow due diligence in determining Appellant was not eligible for MassHealth Standard, arguing that MassHealth

missed critical considerations in assessing Appellant's income. Appellant's representative asked the MassHealth representative what was considered on Appellant's application. The MassHealth representative responded that MassHealth considered Appellant's Social Security retirement income, not SSI income. Appellant's representative asked what number was reported to MassHealth from the Social Security Administration (SSA) that was Appellant's SSI income versus other income. The MassHealth representative testified that Appellant submitted an income verification letter. See Exhibit 4. Appellant's representative responded that this was not his question, and asked again what number the SSA reported to MassHealth. The MassHealth representative responded that the income that was reported by the SSA and with the document Appellant provided showed that Appellant's Social Security retirement income was \$3,334.30. Appellant's representative asked what distinction was made by SSA with regards to the payment. The MassHealth representative responded that the SSA would not report SSI income to MassHealth because it is not countable.

Appellant's representative argued that MassHealth claimed that Appellant's income was \$1,107 and now all of a sudden, the SSA stopped reporting to MassHealth Appellant's SSI income. The SSA had been reporting SSI income to MassHealth for the last 20 years, and MassHealth is able to automatically match it with computer systems. Appellant's representative found it unbelievable that now the SSA is not reporting to MassHealth Appellant's SSI income.

Appellant's representative asserted that part of Appellant's \$3,334.30 income includes SSI. Appellant's representative agreed to produce documentary evidence of this, but encouraged the hearing participants to put on thinking caps. Appellant's representative asserted that Appellant has received SSI for over 30 years. MassHealth can look in computer and know that it the income is SSI, though conceded that MassHealth would not be able to see if SSI has stopped.

Regarding disability, Appellant argued that under 130 CMR 520, Appellant's assets are not countable. Appellant is in her [REDACTED] and she is disabled. Appellant has heart problems, diabetes, and needs assistance in the house. Appellant relies on the services she receives on MassHealth Standard through Commonwealth Care Alliance (CCA). Appellant's representative testified that Appellant's health is at grave risk and could die if her services are taken away. Appellant's representative argued that it is not inappropriate to require Appellant to pay for benefits after an income increase, but it is wrong to take away services and medical insurance that leaves a person to die because of an increase in income. Appellant needs services that she cannot access. Appellant's representative argued that MassHealth Standard and CommonHealth are not equal. Appellant's representative testified with passion because he was upset about what happened to his parent. Appellant's representative argued that MassHealth has to provide a window of time to allow individuals to prepare for such a change. Appellant argued that she has difficulty understanding, seeing, and hearing. The change in benefits made it so she no longer has CCA managing her care, and thus she no longer has a social worker. Appellant cannot see her doctors anymore due to the change of insurance.

Appellant's heart machine was cut off after her benefit was terminated. Appellant cannot get the bus service for her appointments. Appellant is upset and scared, arguing that she needs to be communicated with in a way she understands.

Appellant's representative agreed to provide evidence from the Social Security Administration showing that part of Appellant's income is SSI. Appellant's representative also asked to submit medical records showing that Appellant needs MassHealth Standard based on her medical situation. Though the hearing record was held open through August 16, 2024, Appellant did not submit additional information as of the date of this decision.

MassHealth produced requested documents after the hearing, including a benefit verification letter from SSA dated June 6, 2024. Exhibit 4 at 2-3. According to this letter, beginning in May 2024, Appellant's full monthly Social Security benefit before any deductions is \$3,334.30. *Id.* at 2. From this, \$174.70 is deducted for medical insurance premiums. *Id.* For January 2024 through April 2024, Appellant's Social Security benefit was \$3,334.30 without deductions. *Id.* The letter provides that this benefit is monthly retirement benefits. *Id.* Under "Information about Supplemental Security Income Payments," the letter provides that "[b]eginning February 2018, the current Supplemental Security Income payment is \$0.00." *Id.* Though Appellant had been deemed disabled under Social Security's rules on January 1, 2006, SSI payments were stopped beginning February 2018. *Id.* at 3.

Findings of Fact

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

1. Appellant is in a household of one and over the age of [REDACTED]
2. Appellant is disabled.
3. A benefit verification letter from SSA dated June 6, 2024 states that beginning in May 2024, Appellant's full monthly Social Security benefit before any deductions is \$3,334.30. From this, \$174.70 is deducted for medical insurance premiums. For January 2024 through April 2024, Appellant's Social Security benefit was \$3,334.30 without deductions. Exhibit 4 at 2.
4. According to the June 6, 2024 SSA letter, Appellant's monthly benefit is retirement. "Beginning February 2018, the current Supplemental Security Income payment is \$0.00." *Id.*
5. On April 22, 2024, MassHealth notified Appellant that her MassHealth Standard would end effective May 6, 2024 because she had more countable income than MassHealth

Standard allows. Exhibit 6.

6. On June 18, 2024, MassHealth sent Appellant a notice that her income had changed to \$3,333.70 per month. MassHealth calculated a six-month deductible of \$15,872. Exhibit 1.
7. Appellant filed this appeal in a timely manner on June 26, 2024. Exhibit 2.
8. On July 15, 2024, MassHealth notified Appellant that she was eligible for MassHealth's CommonHealth benefit effective June 11, 2024 with a monthly premium of \$57.20. Exhibit 4 at 15.
9. In 2024, 100% of the monthly FPL for a household of one was \$1,255.

Analysis and Conclusions of Law

The regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over age [REDACTED]. The type of coverage for which a person is eligible is based on the person's and the spouse's income, assets, and immigration status. 130 CMR 515.003(B).

In addition to the MassHealth agency, the Social Security Administration "administers the Supplemental Security Income (SSI) program and determines the eligibility of persons [REDACTED] years of age or older. Persons receiving SSI who [are] [REDACTED] years of age or older are automatically eligible for MassHealth Standard coverage." 130 CMR 515.004(B)(2).

Community residents aged [REDACTED] or over who apply for MassHealth Standard and are not receiving SSI must meet the requirements set forth in 130 CMR 519.005:

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals [REDACTED] 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 percent 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.

The regulations regarding the countable-income amount are set forth in 130 CMR 520.009, set forth in relevant part:

520.009: Countable-income Amount

(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

...

(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. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: *MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB))* or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;

- (3) for rental income: a written statement from the tenant or a copy of the lease;
or
- (4) other reliable evidence.

For community individuals whose income is unearned, MassHealth allows certain standard deductions from gross income as described in 130 CMR 520.013:

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

(B) in determining eligibility for MassHealth Standard, a deduction that is equivalent to the difference between the applicable MassHealth deductible-income standard at 130 CMR 520.030 and 133% of the federal poverty level. This deduction includes, and is not in addition to, the \$20 disregard.

- (1) This deduction from gross unearned income is allowed only for persons who
 - (a) are ■ years of age and older;
 - (b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and
 - (c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level.
- (2) The MassHealth agency will redetermine eligibility without this deduction if
 - (a) after 90 days from the date of the MassHealth agency eligibility approval notice, the person is not receiving personal-care attendant services paid for by the MassHealth agency or has not submitted, upon request from the MassHealth agency, proof of efforts to obtain personal-care attendant services paid for by the MassHealth agency; or
 - (b) the MassHealth agency denies the prior-authorization request for personal-care attendant services.
- (3) If countable income, prior to applying the deduction at 130 CMR 520.013(B), is greater than 133 percent of the federal poverty level, eligibility is determined under 130 CMR 519.005(B): *Financial Standards Not Met*.

Individuals not eligible for MassHealth Standard may still be eligible to have MassHealth pay the

individual's Medicare premium if they qualify for a Medicaid Savings Program (MSP or Buy-in) plan. See 130 CMR 519.010 and 519.011.

MassHealth's CommonHealth benefit for disabled adults is available to community residents [REDACTED] years old or older, provided that eligible applicants meet the requirements of 130 CMR 505.004(B)(2), (3), and (5). 130 CMR 519.012(A)(1). Applicants are also subject to the provisions of 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2), and (N). 130 CMR 519.012(A)(2). According to 130 CMR 505.004(I), individuals eligible for CommonHealth may be assessed a premium in accordance with the premium schedule provided in 130 CMR 506.011(B)(2). However, individuals whose income is less than 150% of the FPL do not have to pay a premium. 130 CMR 506.011(B)(2).

Additionally, MassHealth will cover a CommonHealth member's Medicare premium if their income is at or below 135% of the FPL. 130 CMR 505.004(L)(1), 130 CMR 519.012(D)(1). Though an individual whose income is below 190% of the FPL qualifies for an MSP (see 130 CMR 519.010 and 519.011), MassHealth does not cover both CommonHealth and an MSP.

Here, the evidence shows that Appellant's monthly income is \$3,334.30, comprised of Social Security retirement benefits. None of this amount is SSI. This exceeds 100% of the FPL (\$1,255). Appellant is not eligible for MassHealth Standard and would have to meet a deductible for MassHealth Standard. 130 CMR 519.007(C), 130 CMR 520.028.¹ Appellant should contact MassHealth to inquire about eligibility for the PCA disregard described above in 130 CMR 520.013(B), which could lower her deductible. MassHealth's decision that Appellant did not qualify for MassHealth Standard was not made in error.

Accordingly, this appeal is DENIED.

Appellant representatives raised concerns about Appellant's benefits being less than what she had received before. While it is true that Appellant may not be able to have her benefits managed through CCA without MassHealth Standard, her CommonHealth benefit is a comprehensive insurance plan that is secondary to her Medicare. Appellant's representative also argued that Appellant did not receive proper notice that her benefit would terminate. A termination letter with appeal rights was mailed on April 22, 2024. Had Appellant timely appealed this notice, she may have been entitled to keep MassHealth Standard pending the outcome of the appeal. See 130 CMR 610.036. Finally, Appellant raised legitimate concerns that she has difficulty understanding the notices she receives from MassHealth. Appellant may address this concern by designating a representative to receive communication from MassHealth on her behalf through an Authorized Designated Representative form.²

¹ The deductible is the total dollar amount of incurred medical expenses that an individual is responsible for before MassHealth eligibility is established. 130 CMR 520.031. The deductible is calculated based on the amount that the individual's monthly income exceeds the MassHealth income standard (\$522). 130 CMR 520.030.

² This form is available online at <https://www.mass.gov/doc/authorized-representative-designation-form->

Order for MassHealth

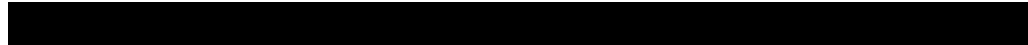
None.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104



[1/download](#) (last checked September 18, 2024). Appellant can also contact MassHealth's customer service at (800) 841-2900 for assistance.