

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2410396
<b>Decision Date:</b>	9/23/2024	<b>Hearing Date:</b>	08/06/2024
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Sousa, Taunton 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Over 65; Eligibility; Income
<b>Decision Date:</b>	9/23/2024	<b>Hearing Date:</b>	08/06/2024
<b>MassHealth's Rep.:</b>	Kelly Souza	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	Yes

### 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 24, 2024, MassHealth downgraded the appellant's benefits from MassHealth Standard to the Medicare Savings Plan<sup>1</sup>. Testimony. The appellant filed this appeal in a timely manner on July 2, 2024, and Aid Pending was applied. *See* 130 CMR 610.015(B) and Exhibit 2. Agency action to suspend, reduce, terminate, or restrict a member's 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 correctly determined that the appellant no longer qualifies for MassHealth Standard benefits.

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<sup>1</sup> The notice reflects a program name of "Senior Buy-In," but that name has since changed. This decision will refer to the program by its current name, though the former name was used at hearing.

## Summary of Evidence

The appellant is an adult over the age of [REDACTED] who resides in the community in a household of one. MassHealth was represented by a worker from the Taunton 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 hearing:

The MassHealth representative testified that MassHealth was able to automatically renew the appellant's benefits on June 24, 2024. On that day, the appellant's benefits were downgraded from MassHealth Standard to the Medicare Savings Plan as a Qualified Medicare Beneficiary due to the appellant's income being too high to qualify for Standard. MassHealth was able to verify that the appellant receives \$1334.00 in monthly Social Security benefits. When applying the \$20.00 unearned income regulatory disregard, the appellant's monthly income was calculated to be \$1314.00. The appellant agreed with the calculation of her income. She reported that her monthly bills make it very difficult for her to make ends meet.

There was some discussion about whether the appellant is disabled and therefore eligible for MassHealth CommonHealth. After the hearing, the MassHealth representative reported that the appellant is eligible for the CommonHealth benefit.

## Findings of Fact

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

1. The appellant is an adult over the age of [REDACTED] 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 June 24, 2024, MassHealth automatically renewed the appellant's benefits. Testimony.
3. On that day, MassHealth issue a notice determining that the appellant does not qualify for MassHealth Standard due to her income and placed him on the Medicare Savings Plan as a Qualified Medicare Beneficiary. Exhibit 1.
4. The appellant filed a timely request for fair hearing on June 2, 2024, and Aid Pending was applied. Exhibit 2.
5. The appellant receives gross monthly Social Security benefits totaling \$1334.00. Exhibit 1, Testimony.

## 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 ■ 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 ■ years old, he is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

To determine a senior's eligibility for MassHealth, 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). 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 based on 2024 Income Standards.<sup>2</sup>

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.
- (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

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<sup>2</sup> <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

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.

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(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 \$1334.00 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 based on 2024 Income Standards. The appellant therefore no longer qualifies for MassHealth Standard benefits. Thus, I find that MassHealth did not err in issuing the June 24, 2024 notice, downgrading the appellant's benefits from MassHealth Standard to the Medicare Savings Plan.

For the foregoing reasons, the appeal is hereby denied.

The appellant has since been deemed eligible for MassHealth CommonHealth and is aware that, pursuant to 130 CMR 519.012, she is unable to receive both MassHealth CommonHealth and the Medicare Savings Plan as a Qualified Medicare Beneficiary. She is, however, eligible to receive the Medicare Savings Plan as a Qualified Individual with a MassHealth CommonHealth benefit. MassHealth should afford the appellant the opportunity to choose which benefits she wishes to receive going forward.

## **Order for MassHealth**

None, other than to remove Aid Pending.

## **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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Mariah Burns  
Hearing Officer  
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616