

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2410954
Decision Date:	8/22/2024	Hearing Date:	08/15/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Shauna Post



*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:	Eligibility
Decision Date:	8/22/2024	Hearing Date:	08/15/2024
MassHealth's Rep.:	Shauna Post	Appellant's Rep.:	Pro se
Hearing Location:	All Parties Appeared by Telephone	Aid Pending:	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 July 8, 2024, MassHealth notified the appellant that her coverage will change to Senior Buy-In because her income and/or assets are too high to get MassHealth Standard. (130 CMR 519.000; 130 CMR 520.000; Exhibit 1). The appellant needs to meet a deductible in the amount of \$2,765 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on July 15, 2024. (130 CMR 610.015; Exhibit 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that her coverage will change to Senior Buy-In because her income and/or assets are too high to get MassHealth Standard. (130 CMR 519.000; 130 CMR 520.000).

Issue

Whether MassHealth was correct in its decision regarding the appellant's eligibility.

Summary of Evidence

The appellant is over [REDACTED] in a family group of one and has a gross monthly income of \$2,222.70. The income includes benefits from the Social Security Administration. After applying a \$20 disregard, the appellant's countable income of \$2,202.70 places her at 175.51% of the federal poverty level. The MassHealth representative testified that to be eligible for MassHealth Standard a family group must have income at or below 100% of the federal poverty level. For a family group of one, that income limit is \$1,255. The MassHealth representative testified that the appellant could become eligible for MassHealth Standard by meeting a deductible in the amount of \$2,765. The calculation of this deductible includes a standard deduction of \$522. The deductible period is May 6, 2024 to December 1, 2024.

The MassHealth representative testified that the appellant was recently determined eligible for MassHealth Standard due to reporting a lower income amount. The appellant's spouse passed away so she now receives survivor's benefits which impacted her eligibility for MassHealth Standard. The MassHealth representative testified that the agency recently created a new account for the appellant alone as her spouse is deceased. In the decision on appeal, MassHealth determined eligibility for the appellant as a family group of one. The MassHealth representative testified that the appellant was eligible for MassHealth CommonHealth in the past as a working disabled adult. The MassHealth representative testified that the agency no longer has verification of the appellant working so cannot deem her eligible for CommonHealth until they receive a letter regarding her working at least 40 hours each month. The MassHealth representative testified that the last letter that the agency received about the appellant working was in [REDACTED]

The MassHealth representative testified that the appellant could become eligible for CommonHealth if she produced a letter showing that she is working at least 40 hours each month. The appellant was eligible for MassHealth CommonHealth from [REDACTED] as the agency always had information about the appellant working at least 40 hours each month. The MassHealth representative noted that while the appellant was eligible for MassHealth CommonHealth, the agency did not pay her Medicare premium.

MassHealth determined the appellant eligible for the Senior Buy-In, currently known as the Medicare Savings Program (MSP). The MSP will pay the appellant's Medicare premium. The MassHealth representative noted that the appellant may qualify for MassHealth under another program if she received services from a Personal Care Attendant. The appellant stated that she does not have a personal care attendant but receives intermittent services from family members to assist with some activities of daily living. The appellant testified that she drives a car and is not working. The appellant has not been certified by MassHealth that she is in need of nursing facility services.

The appellant presented documents that were incorporated into the hearing record as Exhibit 4. The documents include the notice on appeal, the request for hearing, the notice from the

Board of Hearings and other eligibility notices regarding changes in the appellant's MassHealth coverage in June 2024 and July 2024. The MassHealth representative reviewed the documents and stated that changes in the appellant's income from [REDACTED] impacted her eligibility over that period of time. The appellant testified that she has other expenses that she would like MassHealth to consider in determining eligibility including payments for housing, car insurance and utilities. The MassHealth representative responded that MassHealth cannot consider such expenses in determining eligibility.

Findings of Fact

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

1. The appellant is over [REDACTED]
2. The appellant is a family group of one with a gross monthly income of \$2,223.
3. The income includes benefits from the Social Security Administration.
4. After applying a \$20 disregard, the appellant's income is at 171.51% of the federal poverty level.
5. The appellant can become eligible for MassHealth Standard by meeting a deductible.
6. The deductible period is from May 6, 2024 to December 1, 2024.
7. The appellant receives some assistance with activities of daily living from family members.
8. The appellant has not been certified to be in need of nursing-facility services.

Analysis and Conclusions of Law

The regulations at 130 CMR 515.000 through 522.000 provide the MassHealth requirements for persons who are institutionalized, [REDACTED] years of age or older, or who would be institutionalized without community-based services in accordance with all applicable laws, including Title XIX of the Social Security Act. (130 CMR 515.002(B)). As an individual [REDACTED] years of age or older, the appellant must meet the eligibility requirements under these regulations.

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals aged [REDACTED] 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, 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.

An individual 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. (130 CMR 520.009(A)(1)). In determining gross monthly income, MassHealth multiplies the average weekly income by 4.333 unless the income is monthly. (130 CMR 520.009(A)(1)). For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility. (130 CMR 520.009(A)(2)).

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. (130 CMR 520.009(A)(4)). 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. (130 CMR 520.009(A)(4)). MassHealth considers both earned income and unearned income as countable in determining eligibility. (130 CMR 520.009). The appellant does not receive earned income.

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(D)). The applicant or member must verify gross unearned income. (130 CMR 520.009(D)).

The appellant did not dispute that her family group of one has gross monthly unearned income of \$2,223 through benefits received from the Social Security Administration. Deductions allowed from 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 MassHealth, or have been determined by MassHealth, 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) MassHealth 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) MassHealth 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.

In this case, the appellant's countable income was greater than 133 percent of the federal poverty level. Therefore, the appellant was not eligible for this larger deduction in determining eligibility. Instead, MassHealth determined eligibility under 130 CMR 519.005(B): Financial Standards Not Met.

The regulations at 130 CMR 519.005(B) allow individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) to 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. In this case, MassHealth provided the appellant the opportunity to meet a deductible to become eligible for MassHealth Standard. While the appellant was not allowed to have the larger income disregard applied to an eligibility determination as the initial income was over 133% of the federal poverty level, MassHealth considered this disregard in calculating a deductible.

The regulations at 130 CMR 515.001 define a deductible as the total dollar amount of incurred medical expenses that an applicant whose income exceeds MassHealth income standards must be responsible for before the applicant is eligible for MassHealth, as described at 130 CMR 520.028.

The deductible is determined by multiplying the excess monthly income by six. (130 CMR 520.030). Excess monthly income is the amount by which the applicant's countable-income amount as described in 130 CMR 520.009 exceeds the MassHealth deductible-income standard. (130 CMR 520.030).

MassHealth Deductible Income Standards		
Number of Persons	Monthly Income Standard for Community Resident	Monthly Income Standard for Long-Term Care Facility Resident
1	\$522	\$72
2	\$650	

In this case, MassHealth determined that the appellant's countable income (after deduction noted above) of \$1,075 exceeds the deductible-income standard of \$522 for a household of one by \$553. Therefore, the appellant has an excess monthly income of \$553. MassHealth calculated a deductible amount of \$2,765. (130 CMR 520.030).

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. Effective November 24, 2023, MassHealth offers three MSP coverage types: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualifying Individuals (QI).

Pursuant to 30 CMR 519.010(A), MassHealth Buy-In for Qualified Medicare Beneficiaries (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.

MassHealth was correct in determining that the appellant is eligible for the MassHealth Buy-In for Qualified Medicare Beneficiaries (QMB) coverage as her income is less than 190% of the federal poverty level.

Under the MassHealth Buy-In for QMB, MassHealth pays for Medicare Part A and Part B premiums, and deductibles and coinsurance under Medicare Parts A and B. (130 CMR 519.010(B)).

As noted by the MassHealth representative at hearing, as a disabled adult over the age of [REDACTED] the appellant may be eligible for MassHealth CommonHealth. Pursuant to 130 CMR 519.012(A)(1), MassHealth CommonHealth for working disabled adults is available to community residents [REDACTED] years of age and older if they are: permanently and totally disabled; employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review; a citizen; and ineligible for MassHealth Standard. The appellant did not provide testimony or evidence of working at least

40 hours each month or being employed at least 240 hours in the six-month period immediately preceding the month of the eligibility review. Therefore, the appellant is not eligible for MassHealth CommonHealth at this time. As noted at hearing, if the appellant is able to provide MassHealth with evidence of working at least 40 hours each month, MassHealth can review the records and reconsider her eligibility.

This appeal is denied as all the eligibility decisions made by MassHealth are correct.

Order for MassHealth

Release the appellant's aid pending and continue to process the eligibility decision on appeal.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186