

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2411017
<b>Decision Date:</b>	9/23/2024	<b>Hearing Date:</b>	08/13/2024
<b>Hearing Officer:</b>	Scott Bernard		

**Appearances for Appellant:**

*Pro se*



**Appearance for MassHealth:**

Regina Huyn (Quincy MEC)

**Interpreter:**



*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>	Dismissed in part; Denied in part	<b>Issue:</b>	Community Under 65/Age; Community Over 65/ Assets
<b>Decision Date:</b>	9/23/2024	<b>Hearing Date:</b>	08/13/2024
<b>MassHealth's Rep.:</b>	Regina Huynh	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 June 17, 2024, MassHealth informed the appellant that his MassHealth benefits would terminate on July 1, 2024 because he was age 65 or older and an application for individuals aged 65 and older had to be submitted for MassHealth to determine eligibility. (See 130 CMR 501.002(B) and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on July 15, 2024. (See 130 CMR 610.015(B) and Ex. 2). Subsequently, through a notice dated August 8, 2024, MassHealth informed the appellant that he was not eligible for MassHealth because he had more countable assets than MassHealth benefits allowed. (See 130 CMR 520.003; 520.004; and Ex. 5). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

### Actions Taken by MassHealth

MassHealth terminated the appellant's benefits because he was 65 years old or older as of the coverage ending date and had to complete a new application for people 65 years old or older. Subsequently, MassHealth determined that the appellant was not eligible for MassHealth benefits because he had more countable assets than MassHealth permitted.

## Issues

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 501.002, in determining that the appellant was 65 years old or older and therefore was required to submit a new application for people 65 years old or older and whether MassHealth was correct, pursuant to 130 CMR 520.003 and 520.004 in determining that the appellant had more countable assets than MassHealth permitted for persons aged 65 and older.

## Summary of Evidence

An eligibility worker from the MassHealth Enrollment Center in Quincy represented MassHealth. The appellant represented himself, and was accompanied by his spouse, who testified on his behalf. All the witnesses attended the hearing in person. At the appellant's request, the Board of Hearings provided an interpreter who attended by telephone.

The MassHealth representative testified to the following. The appellant is an individual who is currently over the age of 65. (Testimony; Ex. 3). The appellant is living in a household of two, which includes his spouse. (Testimony). The appellant is a non-citizen and had been receiving MassHealth Limited since January 2, 2024. (Testimony; Ex. 3). The appellant [REDACTED] 2024. (Testimony; Ex. 3). MassHealth sent the appellant a letter on that date informing him that his coverage would end on [REDACTED] 2024 since [REDACTED] as of that date and needed to complete a new application for people 65 years old or older. (Testimony; Ex. 1). The appellant's MassHealth Limited closed on July 1, 2024. (Testimony; Ex. 3).

The appellant submitted a MassHealth application for persons aged [REDACTED] (Testimony). On August 8, 2024, MassHealth sent the appellant a letter denying his application for MassHealth Standard because he had more countable assets than MassHealth benefits allow. (Testimony; Ex. 5). The countable asset limit for an individual and spouse living in the community is \$3,000. (Testimony). The appellant's assets total \$97,104.94, and therefore he is \$94,104.97 over the asset limit. (Testimony; Ex. 5). Although not stated in the August 8, 2024 notice, the appellant is also not income eligible for MassHealth benefits. (Testimony). For a household of two, the gross monthly income limit is \$1,704, which is 100% of the federal poverty level (FPL). (Testimony). The appellant's household income is \$1,950 per month, which consists of earned income and Social Security. (Testimony). The appellant has not reported having a disability. (Testimony).

The appellant's spouse, who spoke on behalf of the appellant with his permission, stated the following. Until a year ago the appellant worked. (Testimony). He got sick at that time, and currently he has a lot of medical issues. (Testimony). The appellant had to stop working because of his medical issues. (Testimony). The appellant's spouse is the only person working in the household, and her income was minimal. (Testimony). If rent, medications, and food are taken into consideration, it is difficult to pay for medical treatment. (Testimony). The appellant and his spouse are currently enrolled in a plan through the Massachusetts Health Connector. (Testimony).

They are paying a premium of \$200 per month. (Testimony). The appellant is not able to afford one of the medications that he has to take because it is very expensive. (Testimony).

## Findings of Fact

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

1. The appellant is an individual who is currently over the age of 65. (Testimony; Ex. 3).
2. The appellant is living in a household of two, which includes his spouse. (Testimony).
3. The appellant is a non-citizen and had been receiving MassHealth Limited since January 2, 2024. (Testimony; Ex. 3).
4. The appellant turned [REDACTED] 2024. (Testimony; Ex. 3).
5. MassHealth sent the appellant a letter on that date informing him that his coverage would end on [REDACTED] 2024 since he was [REDACTED] as of that date and needed to complete a new application for people [REDACTED] (Testimony; Ex. 1).
6. The appellant's MassHealth Limited closed on [REDACTED] 2024. (Testimony; Ex. 3).
7. The appellant did apply for MassHealth benefits as a person who was 65 years old or older. (Testimony).
8. On August 8, 2024, MassHealth sent the appellant a letter denying his application for MassHealth Standard because his countable assets exceed the MassHealth limit for persons aged 65 and older. (Testimony; Ex. 5).
9. The countable asset limit for an individual and spouse living in the community is \$3,000. (Testimony).
10. The appellant's assets total \$97,104.94, and therefore he is \$94,104.97 over the asset limit. (Testimony; Ex. 5).
11. Although not stated in the August 8, 2024 notice, the appellant is also not income eligible for MassHealth benefits. (Testimony).
12. For a household of two, the gross monthly income limit is \$1,704, which is 100% of the FPL. (Testimony).
13. The appellant's household income is \$1,950 per month, which consists of earned income and Social Security. (Testimony).

14. The appellant has not reported having a disability. (Testimony).

## Analysis and Conclusions of Law

MassHealth coverage is provided on a separate basis for individuals under the age of 65 and individuals over the age of 65. (130 CMR 501.002(B)). The rules for MassHealth for those under the age of 65 are located at 130 CMR 501-508. Once an individual turns 65 years of age, the individual must apply for MassHealth coverage for those over the age of 65. (130 CMR 516.001 et seq).

The record shows that the appellant turned [REDACTED] 2024. Based on this, MassHealth correctly determined that the appellant was no longer eligible for MassHealth for individuals under the age of [REDACTED] and terminated the appellant's MassHealth benefits as of [REDACTED] 2024. The record also shows that the appellant appealed MassHealth's determination, and then subsequent to the date of the appeal, but prior to the date of the hearing, applied for individuals 65 years old or older.

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (Id.).

MassHealth terminated the appellant because he was over 65 years old and needed to submit a new application for MassHealth for individuals over 65 years old. After submitting the appeal but before the hearing, the appellant applied for MassHealth benefits as an individual over 65 years old. Regarding the issue raised by the June 17, 2024 MassHealth notice, the appeal is DISMISSED.

MassHealth Limited is available to community residents 65 years of age or older who are other noncitizens; qualified noncitizens barred; nonqualified individuals lawfully present; or nonqualified PRUCOLs. (130 CMR 519.009(A)(1); 518.003(A)(2),(3),(C), (D)). Noninstitutionalized individuals thus described who are living with their spouses in the community and are 65 years of age or older may establish eligibility for MassHealth Limited coverage if the countable income amount of the spouses is less than or equal to 100% of the federal poverty level; and the countable assets of the spouses are \$3,000 or less. (130 CMR 519.009(A)(1); 519.005(A); 520.002; 520.003(A)(2); 520.009). Individuals who are not parents and caretaker relatives of children younger than 19 years old whose income, assets, or both exceed the income and/or asset standards may also establish eligibility for MassHealth Limited by reducing their assets, meeting a deductible, or both. (130 CMR 519.009(A)(1) and 519.005(B); 520.004; 520.028 through 520.035).

The appellant meets the categorical criteria for MassHealth Limited for persons over the age of 65 years old. The countable asset limit for MassHealth Limited for a married couple living together is \$3,000 or less. The appellant and his spouse have assets totaling \$97,104.94, and therefore the

appellant's assets are \$94,104.97 over the asset limit. The appellant is not eligible for MassHealth Limited because his assets exceed the countable asset limit to be eligible for that coverage.

The income limit for MassHealth Limited is \$1,704 per month, which is equal to 100% of the federal poverty level for a household of two. At the time MassHealth sent the appellant the August 8, 2024 notice, the appellant's gross monthly household income was \$1,950 per month, which exceeds the income limit for a household of two.

No evidence was submitted showing that the appellant has reduced his assets, met a deductible, or both.

For the above reasons, with regard to the August 8, 2024 notice, the 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171