

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411230
Decision Date:	8/22/2024	Hearing Date:	08/14/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Briana Burgos



*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:	08/14/2024
MassHealth's Rep.:	Briana Burgos	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 12, 2024, MassHealth notified the appellant that his coverage will change to the Senior Buy-In because his income and/or assets are too high to get MassHealth Standard. (130 CMR 519.000; 130 CMR 520.000; Exhibit 1). The appellant filed this appeal in a timely manner on July 19, 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 his coverage will change to the Senior Buy-In because his 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 their decision regarding the appellant's eligibility for MassHealth Senior Buy-In.

Summary of Evidence

The appellant is over [REDACTED] in a family group of 1 and has a gross monthly income of \$1,371. The income includes benefits from the Social Security Administration. After applying a \$20 disregard, the appellant's countable income of \$1,351 is at 107.65% 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. At the time of the eligibility decision, that income limit was \$1,255.

To be eligible for MassHealth Standard, in addition to meeting income standards, individuals must have assets below \$2,000. The MassHealth representative testified that the appellant had a life insurance policy with a cash surrender value of \$3,741 along with a bank account. The appellant's total assets of \$3,748.53 exceeded the asset limit of \$2,000 by \$1,748.53. These excess assets also impacted the appellant's eligibility for MassHealth Standard. The MassHealth representative testified that if the appellant spends down assets, he may become eligible for MassHealth Standard by meeting a deductible. MassHealth did not calculate a deductible amount as the appellant had excess assets.

The MassHealth representative testified that the appellant was eligible for MassHealth Standard in the past as he was under [REDACTED] and the income guidelines change once someone turns [REDACTED] because individuals have access to Medicare as a primary insurance. The MassHealth representative testified that the agency did not act at the time the appellant turned [REDACTED] due to the federal government issuing continuous coverage requirements to maintain care for both new MassHealth applicants and existing members during the COVID-19 Public Health Emergency (PHE). (MassHealth Eligibility Operations Memo 20-09; MassHealth EOM 23-13). These continuous coverage requirements ended on April 1, 2023 as the PHE was lifted. (MassHealth EOM 23-13). As of April 1, 2023, MassHealth began redetermining eligibility for all members to ensure that they still qualify for their current benefits and such action led to this new eligibility decision. (MassHealth EOM 23-13).

The MassHealth representative informed the appellant that he may be eligible for MassHealth CommonHealth as a disabled adult if he can demonstrate to the agency that he works at least 40 hours each month. The MassHealth representative stated that if the appellant requires services provided by a personal care attendant (PCA), he may qualify for MassHealth under another program. The appellant stated that he did not receive or require PCA services. The appellant testified that he cannot work due to his disability.

The MassHealth representative testified that the Senior Buy-In program does not have an asset limit and the income limit is 190% of the federal poverty level. Therefore, the appellant is eligible for the Senior Buy-In.

The appellant did not dispute the income or asset information presented by MassHealth. The appellant testified that he did not know about the income or asset limits for MassHealth Standard. The appellant testified that he provided MassHealth a copy of the same life insurance policy in [REDACTED] and it did not impact his eligibility. The MassHealth representative responded that this may have been due to the COVID-19 PHE or an agency error. The MassHealth representative noted that a past decision does not impact the decision on appeal.

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 1 with a gross monthly income of \$1,371.
3. The income includes benefits from the Social Security Administration.
4. After applying a \$20 disregard, the appellant's income is at 107.65% of the federal poverty level.
5. The appellant has assets totaling \$3,748.53.
6. The appellant was eligible for MassHealth Standard in the past.
7. The appellant has not received certification that he needs nursing facility services and can receive certain services at home.
8. The appellant is not working.

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.

Financial eligibility for MassHealth is based on financial responsibility, countable income, and countable assets. (130 CMR 520.001). In determining eligibility for MassHealth, the total countable-income amount and countable assets of the individual is compared to an income standard and asset limit. (130 CMR 520.002(A)). 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).

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 his family group of 1 has a gross monthly unearned income of \$1,371 through benefits received from the Social Security Administration. MassHealth allows deductions for unearned income but only under certain circumstances which include receiving personal-care attendant services or being determined by MassHealth, through an initial screening or prior authorization, that such services are needed. (130 CMR 520.013). The appellant specifically stated that he does not need such services.

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals aged ■ 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.

As noted by the MassHealth representative at hearing, the agency allows a \$20 disregard in determining eligibility for members over ■ and with the application of this disregard, the appellant's countable income of \$1,396 exceeds 100% of the federal-poverty level for a family of one. (130 CMR 520.000). MassHealth was correct in the discussion regarding income eligibility for MassHealth Standard.

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such

assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. (130 CMR 520.007). Countable assets include things such as cash, bank accounts and the cash-surrender value of a life-insurance policy. The cash surrender value of a life-insurance policy is the amount of money, if any, that the issuing company has agreed to pay the owner of the policy upon its cancellation. (130 CMR 520.007(E)(1)). An individual may adjust the cash-surrender value of life insurance to meet the asset limit. (130 CMR 520.007(E)(1)). If the total face value of all countable life-insurance policies owned by the applicant, member, or spouse exceeds \$1,500, the total cash-surrender value of all policies held by that individual is countable. (130 CMR 520.007(E)(2)). MassHealth does not count the face value of burial insurance and the face value of life-insurance policies not having cash-surrender value (for instance, term insurance) in determining the total face value of life-insurance policies. (130 CMR 520.007(E)(2)). The appellant did not dispute the type of policy or cash surrender value of the policy at issue. MassHealth was correct in determining the appellant ineligible for MassHealth Standard due to having excess assets.

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. (130 CMR 519.005(B)). As discussed at the hearing, the appellant can possibly qualify for MassHealth Standard by spending down assets and then meeting a deductible.

Pursuant to 130 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.

Under the MassHealth Buy-In for QMB, MassHealth pays for Medicare Part A and Part B premiums and for 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 his eligibility.

This appeal is denied as all of the eligibility decisions made by MassHealth were 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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290