

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2411243
Decision Date:	9/6/2024	Hearing Date:	08/23/2024
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Raybryana Dasher, Taunton MEC



*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; Excess Assets
Decision Date:	9/6/2024	Hearing Date:	08/23/2024
MassHealth's Rep.:	Raybryana Dasher	Appellant's Rep.:	Pro se
Hearing Location:	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

Through a notice dated July 2, 2024, MassHealth terminated the appellant's MassHealth coverage effective on July 16, 2024, because her income and assets exceeded the allowed threshold for MassHealth benefits. See 130 CMR 520.001 and Exhibit 1. The appellant filed this appeal in a timely manner on July 19, 2024. See 130 CMR 610.015(B) and Exhibit 2. Any MassHealth decision to suspend, reduce, terminate, or restrict a member's assistance is a valid ground for appeal before the Board of Hearing. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth terminated the appellant's MassHealth coverage effective on July 16, 2024, because her income and assets exceeded the allowed threshold for MassHealth benefits.

Issue

Whether MassHealth was correct in terminating the appellant's coverage effective on July 16, 2024, because her income and assets exceeded the threshold allowed by MassHealth pursuant to 130 CMR 519.002; 130 CMR 520.001; 130 CMR 520.002; and 130 CMR 520.003.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center. The appellant appeared pro se and verified her identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is over the age of 65 and lives with her spouse. The appellant has been on MassHealth Standard since December 2, 1976. On May 15, 2024, MassHealth processed the appellant's renewal application. On July 2, 2024, MassHealth issued a notice terminating the appellant's MassHealth coverage effective on July 16, 2024, because her income and assets exceeded the allowed threshold by MassHealth. The MassHealth representative stated that the appellant's verified household income totals \$4,522.00 per month. She said that the appellant receives \$971.70 from Social Security and her spouse receives \$2,567.00 from Social Security and \$984.00 in disability payments. This amount places the appellant's total household income at 250% of the Federal Poverty Level (FPL). She added that the income limit to receive MassHealth Standard for individuals over 65 years of age in a household of two is 100% of the FPL, or \$1,704.00 per month. Additionally, the appellant's latest bank statement reflected a balance of \$4,982.00 which exceeds the allowed maximum of \$3,000.00. Consequently, as of July 2, 2024, the appellant is only eligible for partial Health Safety Net.

The appellant verified her Social Security income and household size of two. She stated that she is not sure about her husband's Social Security income but knows that he no longer receives disability payments. She said that although she lives with her spouse, they live separate lives. She added that the only reason they live together is because they cannot afford to live apart. Regarding her assets, she stated that her Social Security income had been suspended for a few months, but upon reinstatement, she received a lump sum payment of approximately \$7000.00. She used this money to pay off back rent, loans, and other expenses. Consequently, the remaining balance in her bank account is now approximately \$1000.00. She will be using this money to pay for groceries.

During the hearing, the MassHealth representative deducted the amount of \$984.00 in disability payments from the appellant's total household income and stated that the appellant's adjusted total household income of \$3,551.00 per month was still over the threshold of \$1,704.00 allowed by MassHealth. The MassHealth representative advised the appellant to submit an updated bank statement reflecting the new balance to MassHealth for reconsideration. Additionally, she explained the process of applying for the Frail Elder Waiver (FEW) program to the appellant.¹ The appellant expressed interest and stated that she will follow up.

¹ If and when the appellant applies for the FEW program, a new determination will be made by MassHealth and the appellant will have separate appeal rights based that new determination.

Findings of Fact

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

1. The appellant is over the age of 65 and lives in a household of two. (Testimony).
2. The appellant has been on MassHealth Standard since December 2, 1976. (Testimony and Exhibit 4).
3. On May 15, 2024, MassHealth processed the appellant's renewal application. (Testimony)
4. The appellant's verified household income equals \$3,551.00 per month (\$971.70 appellant's Social Security + \$2,567.00 spouse's Social Security). (Testimony).
5. The MassHealth Standard income limit is 100% of the monthly FPL which is \$1,704.00 a month for a household of two. (Testimony and Federal Poverty Guidelines).
6. The appellant's bank statement reflected a balance of \$4,982.00 which exceeds the allowed maximum of \$3,000.00 by MassHealth. (Testimony).
7. On July 2, 2024, MassHealth terminated the appellant's MassHealth coverage effective on July 16, 2024, because her income and assets exceeded the allowed threshold for MassHealth benefits. (Testimony and Exhibit 1).
8. As of July 2, 2024, the appellant was only eligible for partial Health Safety Net. (Testimony and Exhibit 4).
9. The appellant filed this appeal in a timely manner on July 19, 2024. (Exhibit 2).
10. The appellant has spent down the excess amount in her bank account by paying off bank rent, loans, and other expenses. (Testimony).

Analysis and Conclusions of Law

The MassHealth regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over the age of 65. The type of coverage for which a person is eligible is based on the person's and the spouse's income, and assets as described in 130 CMR 519.000. See 130 CMR 515.003(B). The categorical requirements and financial standards that must be met for a MassHealth coverage type is set forth in MassHealth Regulations 130 CMR 519.000 through 519.007.

Per 130 CMR 519.005(A), an individual would meet the requirements of MassHealth Standard coverage if:

- (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.

In the determination of eligibility for MassHealth, the total countable-income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit, unless one spouse is covered by MassHealth under a home- and community-based services waiver, as described in 130 CMR 519.007(B). See 130 CMR 520.002(A)(1). However, when spouses live apart for reasons other than admission to a medical institution, their assets and income are considered mutually available only through the end of the calendar month of separation. See 130 CMR 520.002(A)(2).

An individual's countable-income amount refers to the individual's gross earned and unearned income² less certain business expenses and standard income deductions. See 130 CMR 520.009. MassHealth allows a \$20 deduction per individual or couple from the member's total gross unearned income. See 130 CMR 520.013(A). If an individual exceeds these standards, he or she may establish eligibility by meeting a deductible. See 130 CMR 519.005(B).

Here, the appellant testified that she lives with her spouse but that they are not a couple. However, this distinction is without a difference per MassHealth regulations unless the spouses actually live apart for reasons other than admission to a medical institution. See 130 CMR 520.002(A)(2). Consequently, MassHealth correctly calculated the appellant's total household income which included her spouse's Social Security income to equal \$3,551.00 per month. Less the \$20 deduction, the appellant's total household income equals \$3,531.00 per month. Based on the current MassHealth Income Standards and Federal Poverty Guidelines, the income limit for MassHealth Standard is 100% of the FPL, or \$1,704.00 a month for an individual over the age of 65 living in a household size of two. Thus, the appellant is over the income limits allowed by MassHealth and MassHealth correctly determined that the appellant did not qualify for MassHealth Standard.

Additionally, MassHealth determined that the appellant's assets exceeded the allowed \$3000.00 threshold. However, the appellant testified that she spent down this amount by paying off her back rent and other expenses. In light of the conclusion that the appellant's total household

² 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. See 130 CMR 520.009(D).

income exceeds the allowed threshold by MassHealth, the argument regarding whether the appellant's assets exceed the allowed threshold need not be addressed.

For the foregoing reasons, this 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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

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