

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2411801
<b>Decision Date:</b>	9/18/2024	<b>Hearing Date:</b>	09/03/2024
<b>Hearing Officer:</b>	Sharon Dehmand		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Maran Yi, Tewksbury 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

<b>Appeal Decision:</b>	DENIED	<b>Issue:</b>	Community Eligibility – over 65; Income
<b>Decision Date:</b>	9/18/2024	<b>Hearing Date:</b>	09/03/2024
<b>MassHealth’s Rep.:</b>	Maran Yi	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<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 July 12, 2024, MassHealth downgraded the appellant’s MassHealth Standard coverage to Medicare Savings Program (a.k.a. Senior Buy-In) with a deductible of \$5,436.00 for MassHealth Standard because her income exceeded MassHealth limits. See 130 CMR 520.001 and Exhibit 1. The appellant filed this appeal in a timely manner on July 29, 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 downgraded the appellant’s MassHealth Standard coverage to Medicare Savings Program (a.k.a. Senior Buy-In) with a deductible of \$5,436.00 for MassHealth Standard because her income exceeded MassHealth limits.

### Issue

Whether MassHealth was correct in downgrading the appellant’s MassHealth Standard coverage to Medicare Savings Program (MSP) because her income exceeded MassHealth limits. See 130

CMR 515.003; 130 CMR 519.002; 130 CMR 519.005; and 130 CMR 519.010.

## Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Tewksbury 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 [REDACTED] and has a household size of one. She said that the appellant has been on MassHealth Standard since February 1, 2023. On July 12, 2024, a notice was sent to the appellant downgrading her MassHealth Standard coverage to MSP because her income exceeded MassHealth limits. The MassHealth representative stated that the appellant has Social Security income in the amount of \$1,448.00 per month which equates to 113% of the federal poverty level (FPL). She added that the income limit to receive MassHealth Standard for individuals over [REDACTED] years of age is 100% of the FPL, or \$1,255.00 per month. The appellant's income exceeds this amount.

The appellant verified her income but disputed her household size. She stated that she has a partner who neither lives with her nor is married to her, but that she is responsible for all his expenses. She said that her partner is her dependent, whom she claims on her tax return. She stated that she can provide her 2023 tax return to substantiate her claim. She argued that her household size should be two.

The MassHealth representative reviewed the appellant's MassHealth application and said that the appellant did not submit any information regarding her dependent on her application. The appellant said that the application does not have a designated area for listing a partner, and it only has an area to list a spouse. The MassHealth representative confirmed that the application does not have a designated area for listing a dependent. She said that the appellant should fill out a new application and include her partner's information as "person two." She added that the appellant should include an affidavit explaining the circumstances and attach a copy of her 2023 tax return to her new application.

## Findings of Fact

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

1. The appellant is over the age of [REDACTED] and lives in a household of one. (Testimony).
2. The appellant had MassHealth Standard coverage since February 1, 2023. (Testimony and Exhibit 4).

3. On July 12, 2024, a notice was sent to the appellant downgrading her MassHealth Standard coverage to MSP because her income exceeded MassHealth limits. (Testimony and Exhibit 1).
4. The appellant filed this appeal in a timely manner on July 29, 2024. (Exhibit 2).
5. The appellant has Social Security income in the amount of \$1,448.00 per month. (Testimony).
6. The MassHealth Standard income limit is 100% of the monthly FPL which is \$1,255.00 a month for a household of one. (Testimony and Federal Poverty Guidelines).
7. The appellant is not married to her partner and does not live with him. (Testimony).

## Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. The MassHealth regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over the age of [REDACTED] (Referred to as Volume II). As the appellant is over [REDACTED] years old, she is subject to the requirements of the provisions of Volume II. Id.

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 MassHealth agency offers the following types of coverage: MassHealth Standard, MassHealth Family Assistance, MassHealth Limited, MassHealth Senior Buy-in, and MassHealth Buy-in. Id.

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals [REDACTED] years of age 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: Countable-income Amount, of the individual or **couple** is less than or equal to 100% 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. (Emphasis added).

An individual's countable income amount refers to the individual's and the spouse's gross earned and unearned income<sup>1</sup> less certain business expenses and standard income deductions. See 130 CMR 520.009(A). 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,

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<sup>1</sup> 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).

he or she may establish eligibility by meeting a deductible. See 130 CMR 519.005(B).<sup>2</sup>

Here, appellant's Social Security income is \$1,448.00 per month. Less the \$20 deduction, appellant's income equals \$1,428.00. Based on current MassHealth Income Standards and Federal Poverty Guidelines, the income limit for MassHealth Standard is 100% of the FPL, or \$1,255.00 a month for an individual over the age of ■ in a household of one. Thus, the appellant is over income.

At the hearing, the appellant contended that her household size was incorrect and that she lives in a household of two. She argued that since her partner is her tax dependent as reflected on her tax return, her household size should be two. This argument fails because according to MassHealth regulations, a "couple" is defined as "two persons married to each other according to the laws of the Commonwealth of Massachusetts." See 130 CMR 515.001. Here, the appellant testified that she is not married to her partner. Thus, her partner will not be considered in MassHealth's determination of her household size.

During the course of the hearing, the MassHealth representative requested, and the appellant agreed to submit a new application listing the appellant's partner as "person two." The appellant may submit a new application with the updated information for a redetermination by MassHealth; however, that determination is outside the scope of this appeal.

For the foregoing reasons, MassHealth's action is upheld, and 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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<sup>2</sup> Pursuant to 130 CMR 520.028(B), an individual may still establish eligibility for MassHealth Standard by meeting a deductible. The amount of the deductible is determined by multiplying the excess monthly income by six. 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.

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Sharon Dehmand, Esq.  
Hearing Officer  
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290