Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	DENIED	**Appeal Number:**	2413722
Decision Date:	11/13/2024	**Hearing Date:**	10/11/2024
Hearing Officer:	Sharon Dehmand	**Record Open to:**	11/1/2024

Appearance for Appellant:
Pro se;
[redacted]

Appearance for MassHealth:
Kelly Souza, 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; Assets; Excess assets; Verifications
Decision Date:	11/13/2024	**Hearing Date:**	10/11/2024
MassHealth's Rep.:	Kelly Souza	**Appellant's Rep.:**	[redacted]
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 August 14, 2024, MassHealth downgraded the appellant's MassHealth coverage effective on August 28, 2024, because his income and/or 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 September 5, 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 Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth downgraded the appellant's MassHealth coverage effective on August 28, 2024, because his assets exceeded the allowed threshold for MassHealth benefits.

Issue

Whether MassHealth was correct in downgrading the appellant's coverage effective on August 28, 2024, because his 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 with an advocate acting as his representative and verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant was on MassHealth Standard since 2018. She said that MassHealth's asset verification system identified a number of assets in the appellant's name. On August 14, 2024, MassHealth notified the member that his coverage will be downgraded to Medicare Savings Program (a.k.a. Senior Buy-In) effective on August 28, 2024. On the same day, a VC-1 letter was sent out to the appellant requesting that he provide verifications regarding his five bank accounts, an updated valuation for a vehicle registered in his name, and a current valuation for the appellant's property. The MassHealth representative stated that she had not received any of the enumerated verifications.

The appellant's representative stated that he had submitted a packet containing all the requested verifications. He added that two of the bank accounts listed in the VC-1 letter were closed years ago and the vehicle was surrendered to a salvage yard. He said that he had submitted a letter on the appellant's behalf explaining the aforementioned.

During the hearing, it became apparent that the appellant had submitted documents to the Board of Hearings attached to the Fair Hearing Request. The submissions were emailed to the MassHealth representative during the hearing, and she was able to review the submissions. The MassHealth representative accepted the verifications but stated that she would still require the following verifications: the valuation of the appellant's property as his primary residence and account closure letters for two of the appellant's bank accounts.

The record was kept open until October 25, 2024, for the appellant to provide the requested documentation, and until November 1, 2024, for MassHealth to review and respond. Through an email on October 18, 2024 and November 12, 2024, the MassHealth representative stated that the valuation of the property as a primary residence was accepted but the affidavit submitted by the appellant and two blank checks are not acceptable forms of account closure or balance verification.

Findings of Fact

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

1. The appellant is over age 65 and lives in the community. (Testimony).

2. The appellant was on MassHealth Standard since 2018. (Testimony).

3. On August 14, 2024, MassHealth notified the member that his coverage will be downgraded to Medicare Savings Program (a.k.a. Senior Buy-In) effective on August 28, 2024, because the appellant's assets exceeded the allowed threshold. (Testimony and Exhibit 1).

4. On the same day, a VC-1 letter was sent out to the appellant requesting that he provide verifications regarding his five bank accounts, an updated valuation for a vehicle registered in his name, and a current valuation of the appellant's property. (Testimony).

5. The appellant filed this appeal in a timely manner on September 5, 2024. (Exhibit 2).

6. The appellant provided verifications regarding three of his five bank accounts and information regarding his vehicle. (Testimony and Exhibit 4).

7. The appellant's representative requested additional time to provide the remaining verifications. (Testimony).

8. The record was kept open until October 25, 2024, for the appellant to provide the requested documentation, and until November 1, 2024, for MassHealth to review and respond. (Exhibit 5)

9. Additional submissions were made by the appellants' representative. (Exhibit 6).

10. MassHealth accepted the valuation of the appellant's property as his primary residence. (Exhibit 7).

11. The blank checks from the two bank accounts along with the appellant's own affidavit are not acceptable forms of bank account closure or balance verification. (Exhibit 7).

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. Regulations 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. See 130 CMR 515.002(B).

The type of coverage for which a person is eligible is based on the person's and the spouse's income, assets, and immigration status. See 130 CMR 515.003(B). Pursuant to 130 CMR 519.005, the following applies to MassHealth Standard coverage for community residents 65 years of age and older:

> (A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 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 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.

Additionally, in order to assist with MassHealth's determination of eligibility, applicants have certain responsibilities as set forth in 130 CMR 515.008.

> …(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.
>
> B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability. of an Appellant.
>
> (C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

MassHealth may also require verification of eligibility factors including income, assets, residency, citizenship, immigration status, and identity as set forth in 130 CMR 516.003.

> …(A) Information Matches. The MassHealth agency initiates information matches with federal and state agencies and other informational services, as described at 130 CMR

516.004, when an application is received in order to verify eligibility.

(B) Electronic Data Sources. If electronic data sources are unable to verify or are not reasonably compatible with the attested information, additional documentation will be required from the individual.

(C) Request for Information Notice. If additional documentation is required, including corroborative information as described at 130 CMR 516.001(B), a Request for Information Notice will be sent to the applicant listing all requested verifications and the deadline for submission of the requested verifications.

(D) Time Standards. The following time standards apply to the verification of eligibility factors.

(1) The applicant or member has 30 days[1] from the receipt of the Request for Information Notice to provide all requested verifications.

(2) If the applicant or member fails to provide verification of information within 30 days of receipt of the MassHealth agency's request, MassHealth coverage is denied or terminated.

(3) A new application is required if a reapplication is not received within 30 days of the date of denial.

In this case, MassHealth's asset verification system identified number of assets in the appellant's name, namely: five bank accounts, one vehicle, and one parcel of real property. The appellant provided sufficient proof to demonstrate that three of his bank accounts were under the allowed asset limits and that he no longer owned the vehicle. See Exhibit 6.

The MassHealth representative testified that the proof regarding the closure of two bank accounts and the valuation of the real property as the appellant's primary residence were still outstanding. The appellant did not dispute this testimony but requested additional time to submit the outstanding verifications. The record was left open allowing the appellant to submit the outstanding verifications requested by MassHealth. See Exhibit 5.

On October 18, 2024 and November 12, 2024, the MassHealth representative reported that the appellant had submitted an acceptable proof regarding the valuation of his real property as his primary home. However, she stated that the blank checks from the two bank accounts along with the appellant's own affidavit were not acceptable forms of bank account closure or balance verification. See Exhibit 7. As of the date the record was closed, no other documents were submitted by the appellant. Id.

[1] Effective April 1, 2023, MassHealth extended the time that non-MAGI applicants and members will have for verifying eligibility factors and providing corroborative information, from 30 days to 90 days. See MassHealth Eligibility Operations Memo 23-09 (March 2023).

While the appellant's testimony and affidavit are credible, the burden is on the appellant to show that MassHealth erred in its action – a burden that the appellant has not met in this case. See Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983)("[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings"). Since the appellant has not provided MassHealth with the required verifications regarding the two bank accounts, he remains over asset in MassHealth's asset verification system. See 130 CMR 516.003(D).

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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

[redacted]

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