

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2419689
<b>Decision Date:</b>	3/7/2025	<b>Hearing Date:</b>	01/31/2025
<b>Hearing Officer:</b>	Emily Sabo		

**Appearance for Appellant:**  
Pro se

**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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Eligibility—over 65; Income
<b>Decision Date:</b>	3/7/2025	<b>Hearing Date:</b>	01/31/2025
<b>MassHealth's Rep.:</b>	Kelly Souza	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center (Telephone)	<b>Aid Pending:</b>	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 December 17, 2024, MassHealth stated that the Appellant was eligible for Senior Buy-In and that the Appellant's MassHealth Standard coverage would end because his income is too high. *See* 130 CMR 519.002, 130 CMR 519.010, and Exhibit 1. The Appellant filed this appeal in a timely manner on December 23, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth found that the Appellant was eligible for Senior Buy-In and that the Appellant no longer qualified for MassHealth Standard because his income is too high.

### Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is not eligible for MassHealth Standard due to his income.

## Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is over the age of 65 and has a household size of one. The MassHealth representative testified that the Appellant's household income at the time of the notice was \$1,980/monthly from Social Security. The MassHealth representative testified that the Appellant's Social Security income had likely increased in January 2025, due to a cost-of-living adjustment from the Social Security Administration. The MassHealth representative testified that to qualify for MassHealth Standard, the household income must be 100% or less of the federal poverty level, which equals \$1,255/monthly for a household of one. The MassHealth representative also stated that the Appellant had completed an adult disability supplement, but no determination had been made yet.

The Appellant verified his identity. The Appellant did not dispute his monthly income. The Appellant testified that he had MassHealth Standard for years before the Covid-public-health-emergency protections and that he was told that his Social Security income was not considered countable income. The Appellant testified that it is impossible to live on just his Social Security benefits. The Appellant also testified that he has had hip replacements and sore knees.

On February 24, 2025, the MassHealth representative emailed the hearing officer and the Appellant, stating that the Appellant was deemed eligible for MassHealth CommonHealth as of February 21, 2025. Exhibit 5. The MassHealth representative stated that the Appellant would receive a notice and that she had called the Appellant. *Id.*

## Findings of Fact

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

1. The Appellant is over the age of 65. Testimony and Exhibit 4.
2. The Appellant has a household size of one. Testimony.
3. The Appellant has a monthly household income of \$1,980 from Social Security income. Testimony and Exhibit 1.
4. On December 17, 2024, MassHealth notified the Appellant that his MassHealth Standard was ending December 31, 2024, due to his income, and that he was eligible for Senior Buy-In. Exhibit 1.
5. On December 23, 2024, the Appellant filed a timely appeal with the Board of Hearings.

## Analysis and Conclusions of Law

In evaluating financial eligibility for MassHealth Standard, the regulations at 130 CMR 519.005 provide:

### 519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C),<sup>1</sup> 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% 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.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), 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(A), (B).

### 520.009: Countable-income Amount

(A) Overview.

- (1) An individual's 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. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.
- (4) 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. These include income to which the applicant, member, or spouse would be entitled whether or not actually

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<sup>1</sup> 130 CMR 519.005(C) details the eligibility requirements for parents or caretaker relatives of a child younger than 19 years old.

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. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

(B) MassHealth Income Standards. Generally, financial eligibility is based on a percentage of the federal poverty level. The monthly federal poverty level standards are determined according to annual standards published in the *Federal Register*. The MassHealth agency adjusts these standards annually using the following formula.

- (1) Divide the annual federal poverty level income standard as it appears in the *Federal Register* by 12.
- (2) Multiply the unrounded monthly income standard by the applicable federal poverty level percentage.
- (3) Round up to the next whole dollar to arrive at the monthly income standards.

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(D) Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. 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. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: *MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB))* or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;
- (3) for rental income: a written statement from the tenant or a copy of the lease; or
- (4) other reliable evidence.

130 CMR 520.009(A), (B), (D).

The MassHealth regulations at 130 CMR 501.001 define the federal poverty level as, "income standards issued annually in the *Federal Register* to account for the last calendar year's increase in prices as measured by the Consumer Price Index." For 2024, the *Federal Register* states that the federal poverty level for a household of one is \$1,255 monthly.<sup>2</sup>

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<sup>2</sup> Even using the updated 2025 FPL figures issued by the federal Centers for Medicare and Medicaid Services, 100% of the FPL for a household of one in 2025 is \$1,304 monthly income, and the Appellant's income of \$1,980 exceeds this figure. See, [Federal Poverty Guidelines - 2025 | Mass Legal Services](#).

The Appellant's Social Security income is considered countable unearned income under 130 CMR 520.009(D). Therefore, because there is no dispute that the Appellant's household income is \$1,980 monthly, which is greater than 100% of the federal poverty level or \$1,255, the Appellant is not financially eligible for MassHealth Standard unless he meets the deductible provided for in 130 CMR 519.005(B).<sup>3</sup> 130 CMR 519.005(A)(1). Accordingly, the Appellant is not financially eligible for MassHealth Standard and MassHealth did not err in sending the December 17, 2024 notice. The appeal is denied.

I am sorry for the Appellant's challenges. However, to the extent that these arguments pertain to the legality of the applicable regulations, it is beyond the scope of the hearing officer's decision-making authority. MassHealth Fair Hearing regulations state, in pertinent part:

***the hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations.*** If the legality of such law or regulations is raised by the appellant, ***the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency.*** Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

130 CMR 610.082(C)(2) (emphasis added).

## Order for MassHealth

End Aid Pending.

## 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>3</sup> While not addressed by the parties at hearing, the deductible of \$8,628 on the December 17, 2024, notice appears to be calculated correctly. 130 CMR 520.030.

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Emily Sabo  
Hearing Officer  
Board of Hearings

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