

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2501970
Decision Date:	4/7/2025	Hearing Date:	03/13/2025
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:  
Pro se

Appearance for MassHealth:  
Mary Frangules



*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>	4/7/2025	<b>Hearing Date:</b>	03/13/2025
<b>MassHealth's Rep.:</b>	Mary Frangules	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 January 13, 2025, MassHealth notified the appellant that they are changing his deductible amount because of a change in his income. (130 CMR 519.000; 130 CMR 520.000; Exhibit 1). The appellant needs to meet a deductible in the amount of \$9,876 to become eligible for MassHealth Standard. (130 CMR 519.000; Exhibit 1). The appellant filed this appeal in a timely manner on January 31, 2025. (130 CMR 610.015; Exhibit 2). The Board of Hearings scheduled a hearing for February 26, 2025. (Exhibit 3). Prior to the hearing date, the appellant submitted a request to reschedule the hearing. (Exhibit 4). The Board of Hearings granted this request and scheduled the hearing for March 13, 2025. (Exhibit 5). 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 they are changing his deductible amount because of a change in his income. (130 CMR 519.000; 130 CMR 520.000).

## **Issue**

Whether MassHealth was correct in their decision regarding the calculation of the appellant's deductible.

## **Summary of Evidence**

The appellant is over 65-years old, in a family group of two and has a gross monthly income of \$3,231. The income includes the appellant's benefits from the Social Security Administration in the amount of \$1,504 and earned income from the appellant's spouse in the amount of \$1,689. After applying deductions including a regulatory disregard of \$20 to the appellant's unearned income; and \$65 as well as one half of the remaining earned income [\$812], the countable income of \$2,296 places the appellant at 130.23% of the federal poverty level. The MassHealth representative testified that to be eligible for MassHealth Standard an individual must have income at or below 100% of the federal poverty level. For a family group of two, that income limit is \$1,763. The MassHealth representative testified that the appellant could become eligible for MassHealth Standard by meeting a 6-month deductible in the amount of \$9,876. The calculation of this deductible utilizes the countable income of \$2,296 and a standard deduction of \$650. The monthly deductible period is October 1, 2024 to April 1, 2025.

The MassHealth representative testified that the appellant was eligible for MassHealth Standard in the past and remained eligible until 2024 as the federal government issued 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. (MassHealth EOM 23-13). The agency also began to act on reported changes after the PHE was lifted. A change for the appellant included turning [REDACTED] during the PHE. In October 2024, the appellant's coverage changed to the Medicare Savings Program (MSP) for Qualified Medicare Beneficiaries (QMB).

The MassHealth representative testified that the only determination made by the agency in the decision on appeal was to the deductible amount which was a result of a change in the appellant's income from the Social Security Administration due to an annual Cost of Living Adjustment (COLA). The MassHealth representative testified that the appellant will likely remain eligible for the Medicare Savings Program (MSP) for Qualified Medicare Beneficiaries (QMB) until October 2025. The MSP-QMB pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B. It was noted at hearing that an eligibility decision made in October 2024 is beyond the scope of an appeal filed in January 2025 as an individual has 60 days to file a request for hearing.

The appellant testified that the information presented by MassHealth regarding the income of himself and his spouse was correct. The appellant did not agree with the decision as he was eligible for MassHealth Standard in the past. The appellant asked the agency to consider other expenses in determining eligibility and calculating a deductible. The MassHealth representative responded that MassHealth cannot consider expenses beyond medical expenses utilized to meet the deductible in determining eligibility.

## **Findings of Fact**

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

1. The appellant is over 65-years old.
2. The appellant is a family group of two with countable income of \$2,296.00.
3. The income includes benefits from the Social Security Administration in the amount of \$1,504 and earned income of \$1,689.
4. After applying a \$20 disregard to the unearned income and regulatory disregards to the earned income, the appellant's income is at 130.23% of the federal poverty level.
5. The appellant can become eligible for MassHealth Standard by meeting a deductible.
6. The deductible period is from October 1, 2025 to April 1, 2025.

## **Analysis and Conclusions of Law**

The regulations at 130 CMR 515.000 through 522.000 provide the MassHealth requirements for persons who are institutionalized, 65 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 65 years of age or older, the appellant must meet the eligibility requirements under these regulations.

Pursuant to 130 CMR 519.005(A), noninstitutionalized individuals aged 65 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.

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, meeting a deductible, or both. (130 CMR 519.005(B)). The appellant's income exceeded these standards so would have to meet a deductible in becoming eligible for MassHealth Standard.

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).

Earned income is the total amount of compensation received for work or services performed. (130 CMR 520.009(C)). Earned income includes wages, self-employment income, and payment from roomers and boarders. (130 CMR 520.009(C)).

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 he receives unearned income from the Social Security Administration and his spouse has earned income. In determining eligibility and calculating a deductible, MassHealth allows certain standard earned- and unearned-income deductions from gross income. (130 CMR 520.011).

Standard earned-income deductions are applied in the following order:

- (A) \$20, if there is no unearned income or, if there is unearned income that is less than \$20, the balance of the \$20 is disregarded from earned income;
- (B) the next \$65 a month of earned income; and
- (C) one-half of the remaining earned income.

MassHealth applied the correct deductions to earned income of the appellant's spouse in calculating a deductible.

Deductions allowed from total gross unearned income include a deduction of \$20 per individual or married couple; or a deduction that is allowed only for persons who are 65 years of age and older, are receiving personal-care attendant services paid for by MassHealth, or have been determined by MassHealth, through initial screening or by prior authorization, to be in need of personal-care attendant services. (130 CMR 520.013). Neither party noted that MassHealth pays for, has screened, authorized the appellant or his spouse to be in need of personal-care services. MassHealth applied the correct deductions to the appellant's unearned income in calculating a deductible.

The regulations at 130 CMR 515.001 define a deductible as the total dollar amount of incurred medical expenses that an applicant whose income exceeds MassHealth income standards must be responsible for before the applicant is eligible for MassHealth, as described at 130 CMR 520.028.

The deductible is determined by multiplying the excess monthly income by six. (130 CMR 520.030). 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. (130 CMR 520.030).

<b>MassHealth Deductible Income Standards</b>		
Number of Persons	Monthly Income Standard for Community Resident	Monthly Income Standard for Long-Term Care Facility Resident
1	\$522	\$72
2	\$650	

In this case, MassHealth determined that the appellant's countable income of \$2,296 exceeds the deductible-income standard of \$650 for a household of two by \$1,646. Therefore, the appellant has an excess monthly income of \$1,646 and MassHealth correctly calculated a deductible amount of \$9,876. (130 CMR 520.030).

This appeal is denied as MassHealth correctly calculated the deductible.

## **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129