

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



(per BOH approval of ADA accomodation request)

<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2504566
<b>Decision Date:</b>	6/13/2025	<b>Hearing Date:</b>	04/15/2025
<b>Hearing Officer:</b>	Casey Groff	<b>Record Closed:</b>	04/18/2025

**Appearance for Appellant:**  
*Pro se*

**Appearance for MassHealth:**  
Silvia Degale, Quincy MassHealth Enrollment Center



*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>	Comm. Eligibility, Under 65; Income; MSP
<b>Decision Date:</b>	6/13/2025	<b>Hearing Date:</b>	04/15/2025
<b>MassHealth's Rep.:</b>	Silvia Degale	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings, Remote	<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 3/5/25, MassHealth notified the Appellant that her Medicare Savings Program (MSP) benefit was being downgraded from Qualified Medicare Beneficiary (QMB) to Qualified Individual (QI) or Specified Low Income Beneficiary (SLMB) because of an increase in her countable income. *See* Exh. 1 and 130 CMR 519.011. Appellant filed this appeal in a timely manner on 3/18/25. *See* Exh. 2 and 130 CMR 610.015(B). Limiting or reducing the scope of assistance is valid grounds for appeal. *See* 130 CMR 610.032. Following the hearing on 4/15/25, the record remained open through 4/18/25 for the Appellant to submit additional evidence. *See* Exhs. 6-7.

### Action Taken by MassHealth

MassHealth downgraded Appellant's MSP benefit level from QMB to QI/SLMB.

### Issue

The issue on appeal is whether MassHealth correctly downgraded Appellant's MSP benefit from QMB to QI/SLMB based on its determination that Appellant's income exceeded the program limit to remain eligible for QMB.

## Summary of Evidence

At the hearing, MassHealth was represented by a benefits and eligibility representative. Appellant appeared at the hearing, acting *pro se*. All parties appeared telephonically.

The MassHealth representative testified that Appellant is under the age of 65 and lives in a household size of one (1). Appellant has a verified disability and is enrolled in Medicare. In January of 2025, Appellant submitted a Medicare Savings Program (MSP) application to MassHealth, seeking financial assistance in paying the costs and premiums associated with her Medicare coverage.<sup>1</sup> Upon receipt, MassHealth approved Appellant for MSP at the Qualified Member Beneficiary (QMB) level, effective 2/1/25. The representative noted that there are several tiers of MSP with QMB being the most comprehensive. Through a letter dated 3/5/25, MassHealth informed Appellant that her MSP benefit was being downgraded from QMB to the Qualified Individual (QI) or Specified Low Income Beneficiary (SLMB) due to an increase in her countable income. See Exh. 1. The notice indicated that Appellant's MSP-QMB benefit would end on 3/19/25. *Id.* The MassHealth representative testified that by appealing the notice, Appellant's QMB benefit did not end on the anticipated termination date as it was being protected through the pendency of this appeal.

The MassHealth representative testified that the 3/5/25 notice was generated after MassHealth received a reported increase in Appellant's Social Security disability income (SSDI) to \$2,739 per month. To be eligible for MSP-QMB, the applicant/member must have income that does not exceed 190% of the federal poverty level (FPL). For a single individual, this amounts to a gross monthly income of \$2,478. Individuals who have income in excess of 190% of the FPL but remain at or below 225% of the FPL are eligible for MSP QI/SLMB. This amounts to a monthly income limit of \$2,935 for a single individual. Because Appellant's income is above the allowable amount for QMB, MassHealth appropriately downgraded her MSP benefit to QI/SLMB, as she remains under 225% of the FPL.

MassHealth testified that all MSP benefits, regardless of level, cover the member's Medicare Part B premium and come with Health Safety Net (HSN). As such, Appellant has active HSN, which has been in place since 2/1/25.

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<sup>1</sup> A copy of the MSP application, which Appellant submitted in advance of hearing, indicated that Appellant reported receiving a gross monthly Social Security benefit of \$2,671.70 at that time. See Exh. 6(a).

Appellant testified that she filed this appeal for multiple reasons. First, she is disputing the downgrade in her MSP benefit. Appellant asserted that she requires QMB because, unlike QI/SLMB, it covers her dental premium of \$68.02 per month. Due to her financial hardship and homelessness, she cannot afford this premium. Appellant acknowledged that she currently receives a gross SSDI amount of \$2,739 per month; however, she argued, this figure does not accurately reflect her financial situation. Through testimony, as well as pre and post hearing evidentiary submissions, Appellant asserted that MassHealth improperly counted the entirety of her SSDI without regard to the \$340.02 per month that she incurs in medical/dental premiums, as well as \$3,666 per month in housing/shelter expenses, incurred through hotel stays due to being homeless.<sup>2</sup> See Exh. 6, 6(a)-(f). Appellant asserted that she is entitled to a hardship deduction under 130 CMR 520.007(G)(11) due to loss of housing. See Exh. 6. Appellant submitted a spreadsheet to show that after subtracting her premium and housing expenses from her SSDI, she has a monthly debt of -\$1,267. *Id.* In addition, Appellant also calculated a monthly expense of \$1,500 per month for basic daily needs, which, if also applied, would increase her monthly debt to a total net loss of -\$2,767. Appellant argued that because MassHealth did not consider these expenses when determining her countable income, she is entitled to maintain her MSP-QMB benefit and reimbursement of her dental premium payments.

Appellant also raised arguments that were unrelated to the 3/5/25 notice under appeal. Appellant indicated that she was seeking retroactive HSN to cover 8 unpaid claims from multiple emergency room (ER) hospital visits that occurred during a gap in coverage between 6/26/24 through 1/7/25. See Exh. 5(a). Appellant also sought to challenge what she alleged to be MassHealth's denial of a disability accommodation she placed on 1/8/25, through which she sought all MassHealth communications to be sent via email.<sup>3</sup>

In reviewing her case history, the MassHealth representative indicated that Appellant had been receiving CommonHealth in the first half of 2024, however, this coverage ended on 6/26/24 for nonpayment of premiums. MassHealth testified that Appellant's CommonHealth benefit was reinstated on 1/7/25 but subsequently closed again on 3/26/25. The MassHealth representative explained that this appeared to be due to the fact that Appellant submitted an "MSP-only" application, as opposed to a regular MassHealth application. The MassHealth representative explained that Appellant would simply need to submit the correct application to reflect that she is seeking both CommonHealth and MSP.

In response, Appellant asserted that she explicitly did *not* want CommonHealth. Rather, she

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<sup>2</sup> Appellant submitted verification of these expenses, which included Medicare Part B and C premiums of \$185 and \$87, respectively, a monthly dental premium of \$68.02, as well as payments/invoices incurred from hotel stays as a result of her homelessness. *Id.*

<sup>3</sup> It is noted that while the Board of Hearings approved Appellant's request for an accommodation to send all correspondence via email, this only pertains communications related to this hearing/appeal, not with regard to communications with MassHealth eligibility.

was only seeking to maintain her MSP-QMB benefit and needed retroactive HSN (not CommonHealth) to cover the gap in coverage (as it was her understanding that when she lost CommonHealth on 6/26/24, she also lost HSN. On 1/17/25, she was approved for a premium hardship waiver, through which MassHealth waived all prior outstanding premium charges as well as all future premiums through 1/31/26. She was under the impression that this would have retroactively reinstated both CommonHealth and HSN to close the gap in coverage.

## Findings of Fact

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

1. Appellant is under the age of 65 and lives in a household size of one (1).
2. Appellant has a verified disability and is enrolled in Medicare.
3. Through a letter dated 3/5/25, MassHealth informed Appellant that her MSP benefit would be downgraded from QMB to QI/SLMB because her income exceeded the program limit of 190% of the FPL to remain eligible for QMB.
4. Appellant receives countable Social Security disability income of \$2,739 per month.

## Analysis and Conclusions of Law

The MassHealth agency is responsible for the administration and delivery of MassHealth services to eligible low- and moderate-income individuals, couples, and families. *See* 130 CMR 501.002. The coverage types available to individuals under the age of 65 include Standard, CommonHealth, CarePlus, Family Assistance, and Limited. *See* 130 CMR 501.003(B). In addition, MassHealth offers Medicare Saving Program (MSP) benefits to qualifying Medicare beneficiaries in accordance with regulations at 130 CMR 519.010 and 130 CMR 519.011. *See* 505.007. Unlike the other coverage types offered through MassHealth, MSP is not health insurance, but rather, a financial benefit to offset the costs associated with the individual's Medicare insurance coverage.

Once an application for benefits received, MassHealth will typically determine eligibility for the most comprehensive coverage type for which the applicant is eligible. *See* 130 CMR 501.003(A). MassHealth members who are enrolled in and/or eligible for Standard or CommonHealth may receive MSP simultaneously with their coverage *or* may choose to have MSP only through submitting a Medicare Savings Program application, as opposed to the traditional MassHealth application for all benefits.

The evidence indicates that on 1/7/25, Appellant was approved for MassHealth

CommonHealth. Shortly thereafter, Appellant submitted a Medicare Savings Program application and was approved for MSP as a Qualified Medicare Beneficiary (QMB) effective 2/1/25. According to MassHealth, the MSP-only application prompted Appellant's CommonHealth benefit to end on 3/26/25. At the hearing, Appellant explicitly asserted that she was not seeking reinstatement of her CommonHealth coverage. Rather, she was appealing the 3/5/25 notice as it pertained to the downgrade in her MSP benefit level.

MassHealth offers three MSP coverage types which are described in 130 CMR 519.010-011, and state, in relevant part, the following:

519.010: Medicare Savings Program (MSP) –Qualified Medicare Beneficiaries (QMB)

(A) Eligibility Requirements. MSP (Buy-in) QMB coverage is available to Medicare beneficiaries who

(1) are entitled to hospital benefits under Medicare Part A;

(2) ***have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 190% of the federal poverty level;***

....

(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B for members who establish eligibility for MSP coverage in accordance with 130 CMR 519.010(A).

....

519.011: Medicare Savings Program (MSP) – Specified Low Income Medicare Beneficiaries and Qualifying Individuals:

(A) MSP (Buy-in) for Specified Low Income Medicare Beneficiaries (SLMB).

(1) Eligibility Requirements. MSP is available for Specified Low Income Beneficiaries who

(a) are entitled to hospital benefits under Medicare Part A;

(b) have a countable income amount (including the income of the spouse with whom they live) greater than 190% and less than or equal to 210% of the federal poverty level. MassHealth will disregard all assets or resources when determining eligibility for MSP only benefits;

...

(2) Benefits. The MassHealth agency pays the cost of the monthly Medicare Part B premium for members who establish eligibility for MSP for SLMB coverage in accordance with 130 CMR 519.011(A).

...

(B) MSP for Qualifying Individuals (QI).

(1) Eligibility Requirements. MSP for Qualifying Individuals (QI) coverage is available to Medicare beneficiaries who

(a) are entitled to hospital benefits under Medicare Part A;

(b) have a countable income amount (including the income of the spouse with whom he or she lives) that is greater than 210% of the federal poverty level and less than or equal to 225% of the federal poverty level;

...

(2) Benefits. The MassHealth agency pays the entire Medicare Part B premium, in accordance with section 1933 of the Social Security Act (42 U.S.C. § 1396u-3), for members who establish eligibility for MSP for QI coverage in accordance with 130 CMR 519.011(B).

As a Medicare beneficiary living in Massachusetts, Appellant is categorically eligible for any of the aforementioned MSP benefit levels. To remain eligible for MSP-QMB, Appellant would need to have income that is less than or equal to 190% of the FPL. For a single individual, that limit amounts to a modified gross income (MAGI) of \$2,478 per month. *See 2025 MassHealth Income Standards and Federal Poverty Guidelines* (effective 3/1/25).

MassHealth counts the total MAGI-based income of every individual included in the individual's household (with exceptions of children and tax dependents not expected to file tax returns). *See* 130 CMR 506.007(A)(2)(a). Countable household income includes both earned and unearned income less deductions described in 130 CMR 506.003(D). *See* 130 CMR 506.003. Countable unearned income, may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refunds, and gross gambling income. *Id.*

The allowable deductions, as specified under 130 CMR 506.003(D), are recognized under federal law for purposes of calculating MAGI countable income, and include the following:

- 1) educator expenses;
- 2) reservist/performance artist/fee-based government official expenses;
- 3) health savings account;
- 4) moving expenses, for the amount and populations allowed under federal law;
- 5) one-half self-employment tax;
- 6) self-employment retirement account;
- 7) penalty on early withdrawal of savings;
- 8) alimony paid to a former spouse...;
- 9) individual retirement account (IRA);
- 10) student loan interest;
- 11) scholarships, awards, or fellowships used solely for educational purposes;
- 12) and other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law.

Here, Appellant acknowledges that she receives Social Security disability income of \$2,739 per-month. However, in contesting the 3/5/25 eligibility determination, Appellant argues that

MassHealth failed to account for her health and dental premiums, shelter expenses, and other cost of living expenses as identified in her post-hearing submissions. While Appellant persuasively argued that her cost-of-living expenses are indeed disproportionate to her income, there was no evidence to suggest that any of these expenses fell within the allowable deductions described in 130 CMR 506.003(D). Moreover, Appellant's reliance on 130 CMR 520.007(G)(11) is misplaced. This regulatory provision falls under MassHealth's treatment of countable *assets* in determining eligibility for senior applicants over the age of 65 or individuals seeking coverage for long-term care services. MassHealth does not count an individual's assets for purposes of determining eligibility for MSP benefits; rather, financial eligibility for MSP is solely based on the individual's *income*. Ultimately, there is no legal or regulatory authority that would allow MassHealth to calculate Appellant's countable income at an amount less than \$2,739 per month. As Appellant's income exceeds the limit to qualify for MSP-QMB, MassHealth did not err in downgrading Appellant to the next most comprehensive benefit of MSP-SLMB/QI.

The appeal is DENIED with respect to the 3/5/25 notice.

To the extent Appellant seeks to dispute the gap in coverage between 6/26/24 and 1/7/25 and/or MassHealth's denial of a requested disability accommodation on 1/8/25, these claims cannot be adjudicated in this appeal.

MassHealth Fair Hearing Rules at 130 CMR 610.035, states, in relevant part, that BOH will dismiss a request for a hearing when:

- (1) the request is not received within the time frame specified in 130 CMR 610.015;  
....
- (4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032...
- (5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;

The arguments that Appellant raised at hearing which are unrelated to the 3/5/25 notice under appeal, are neither timely, nor amount to an appealable action that falls within the scope of 130 CMR 610.003. Accordingly, the appeal is DISMISSED with respect to any claims raised by Appellant that are unrelated to the 3/5/25 notice.

## **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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Casey Groff  
Hearing Officer  
Board of Hearings

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171