

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2505369
<b>Decision Date:</b>	6/25/2025	<b>Hearing Date:</b>	05/05/2025
<b>Hearing Officer:</b>	Emily Sabo		

**Appearances for Appellant:**



**Appearance for MassHealth:**

Jennifer Canizares, Springfield 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; Medicare Savings Programs (MSPs)
<b>Decision Date:</b>	6/25/2025	<b>Hearing Date:</b>	05/05/2025
<b>MassHealth's Rep.:</b>	Jennifer Canizares	<b>Appellant's Rep.:</b>	Pro se & social worker
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center (Virtual)	<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 March 11, 2025, MassHealth notified the Appellant that it was ending his benefit, effective March 31, 2025, due to him having more countable income than MassHealth benefits allow. 130 CMR 519.011 and Exhibit 1.<sup>1</sup> The Appellant filed this appeal in a timely manner on April 3, 2025. 130 CMR 610.015(B) and Exhibit 2. Termination of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

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<sup>1</sup> MassHealth also sent the Appellant notices dated March 5, 2025, and April 8, 2025, which are also included as part of the record. *See* Exhibit 1. At the hearing, the MassHealth representative clarified that the benefit that was ending was the Medicare Savings Program (MSP) Buy-in for Specified Low-Income Medicare Beneficiaries (SLMB).

MassHealth terminated the Appellant's MSP-SLMB Buy-in benefit.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.011, in terminating the Appellant's MSP-SLMB Buy-in benefit.

## Summary of Evidence

The hearing was held virtually. The MassHealth representative testified that the Appellant is over the age of [REDACTED] and has a household size of one. The MassHealth representative testified that in March 2025, the Appellant's Social Security income increased from \$404/month to \$844/month. The MassHealth representative testified that the Appellant's other gross monthly income includes \$2,184.04 from a pension, and \$53.03 in dividends. The MassHealth representative testified that the Appellant's monthly income was 234.6% of the federal poverty level and that he was no longer eligible for the MSP-SLMB Buy-in benefit because his income exceeded 210% of the federal poverty level. The MassHealth representative also testified that because his countable income exceeded 225% of the federal poverty level, the Appellant was ineligible for the MSP for Qualified Individuals Buy-in benefit.

The Appellant verified his identity. The Appellant testified that his monthly expenses are greater than his monthly net income, and so he is seeking an exception, because losing the benefit of MassHealth paying his \$185/monthly Medicare Part B premium is harming him. The Appellant testified that he is behind on his rent and has additional co-payment and medication costs. The Appellant testified that he also has major depressive disorder, irritable bowel syndrome, and ADHD. He testified that he also has an adult child with cystic fibrosis and that he has a lot on his plate.<sup>2</sup>

## Findings of Fact

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

1. The Appellant is an adult over the age of [REDACTED], with a household size of one. Testimony; Exhibit 4.

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<sup>2</sup> The MassHealth representative testified that the Appellant may be eligible to have MassHealth CommonHealth as a secondary insurance, because he has a disability verified by the Social Security Administration. The Appellant testified that he was not interested in that.

2. As of March 2025, the Appellant's gross monthly income consists of \$844 in Social Security income, \$2,184.04 from a pension, and \$53.03 in dividends. Testimony.
3. On March 11, 2025, MassHealth notified the Appellant that his MassHealth benefit was ending March 31, 2025. Exhibit 1.
4. The Appellant filed a timely appeal with the Board of Hearings on April 3, 2025. Exhibit 2.

## Analysis and Conclusions of Law

MassHealth regulations provide the following:

### 519.010: Medicare Savings Program (MSP) –Qualified Medicare Beneficiaries (QMB)<sup>3</sup>

(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;
- (3) Effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website. Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and
- (4) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000: *Health Care Reform: MassHealth: Universal Eligibility Requirements* or 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, as applicable.

(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).

(C) Begin Date. The begin date for MSP coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

130 CMR 519.010.

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

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<sup>3</sup> Please also see Eligibility Operations Memo 24-03 (March 2024), available at <https://www.mass.gov/doc/eom-24-03-medicare-savings-programs-formerly-known-as-masshealth-senior-buy-in-and-masshealth-buy-in-programs-0/download>.

(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;

(c) Effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website. Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and

(d) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000: *Health Care Reform: MassHealth: Universal Eligibility Requirements* or 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, as applicable.

(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).

(3) Begin Date. MSP for SLMB coverage, in accordance with 130 CMR 519.011(A), begins with the month of application and may be retroactive up to three calendar months before the month of application.

(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;

(c) effective until February 29, 2024, have countable assets less than or equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare & Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website. Effective March 1, 2024, MassHealth will disregard all assets or resources when determining eligibility for MSP-only benefits; and

(d) meet the universal requirements of MassHealth benefits in accordance with 130 CMR 503.000: *Health Care Reform: MassHealth: Universal Eligibility Requirements* or 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, as applicable.

(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).

(3) Eligibility Coverage Period.

(a) MSP for QI coverage, in accordance with 130 CMR 519.011(B), begins with the month of application. Coverage may be retroactive up to three months before the month of application provided

1. the retroactive date does not extend into a calendar year in which the expenditure cap described at 130 CMR 519.011(B)(4) has been met; and
2. the applicant was not receiving MassHealth benefits under the Medicaid state plan during the retroactive period.

(b) Once determined eligible, a member who continues to meet the requirements of 130 CMR 519.011(B) is eligible for the balance of the calendar year. Such members are not adversely impacted by the provisions of 130 CMR 519.011(B)(4).

(4) Cap on Expenditures.

(a) The MassHealth agency does not extend eligibility to individuals who meet the requirements of MSP for QI in accordance with 130 CMR 519.011(B), if the MassHealth agency estimates the amount of assistance provided to these members during the calendar year will exceed the state's allocation, as described in section 1933 of the Social Security Act.

(b) The MassHealth agency gives preference to members who were eligible for MSP for Specified Low Income Medicare Beneficiaries, as described in 130 CMR 519.011, or MSP for Qualified Medicare Beneficiaries, as described in 130 CMR 519.010, in December of the previous calendar year when determining an individual's eligibility for MSP for QI, as described in 130 CMR 519.011(B), in the subsequent calendar year.

130 CMR 519.011.

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 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.

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

(1) Self-employment Income. Gross income for the self-employed is the total amount of income listed on the most recent tax return before adjustments to income are made. A real-estate dealer, if engaged in the business of selling real estate to customers for profit, is considered to have self-employment earned income. Income from property that is owned by an individual who is not a real-estate dealer or is owned by the individual's spouse is considered unearned income.

(2) Income from Roomers and Boarders. Payment for room and meals received from anyone other than the spouse of the applicant or member is countable earned income. Gross income from roomers and boarders is the amount received for the room and board, less business expenses as described at 130 CMR 520.010(B).

(3) Verification of Earned Income. The applicant or member must verify gross earned 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 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), both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only upon the request of the MassHealth agency. Verifications include

- (a) two recent pay stubs;
- (b) a signed statement from the employer;
- (c) the most recent U.S. tax return or self-employment income records;
- (d) for room and board: a statement signed by both parties stating the amount and frequency of payments; or
- (e) other reliable evidence.

(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.

(E) Lump-sum Payments. A lump-sum payment is a one-time-only payment that represents either windfall payments such as inheritances or legacies, or the accumulation of recurring countable income such as retroactive unemployment compensation or federal veterans' retirement benefits. Generally, lump-sum payments are counted as unearned income in the calendar month received and as an asset in subsequent months, except as provided in 130 CMR 520.009(E)(1).

(1) Exceptions. The following lump-sum payments are noncountable:

- (a) a retroactive RSDI and/or SSI benefit payment, subject to the provisions of 130 CMR 520.007(H)(1);
- (b) proceeds reserved for the replacement or repair of an asset that is lost, damaged, or stolen and any interest earned on such proceeds are exempt from consideration as assets for nine calendar months after the month of receipt and may be exempt for an additional nine calendar months where good cause exists;
- (c) proceeds from the sale of a home used as the principal place of residence provided the proceeds are used to purchase another home to be used as the principal place of residence. Such proceeds are exempt from considerations as assets for three calendar months after the month of receipt;
- (d) proceeds from the sale of real estate other than a home subject to the provisions of 130 CMR 520.007(G); and
- (e) proceeds from the sale of nonexempt vehicles subject to the provisions of 130 CMR 520.007(F).

(2) Verifications. The applicant or member must verify a lump-sum payment. 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) both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only at MassHealth agency request. Verifications include

- (a) a benefit or settlement award letter;



- (b) a retirement-fund document indicating the amount of the lump-sum payment;
- (c) a written statement from the agency, company, or institution making the payment;
- (d) a copy of the payment document; or
- (e) other reliable evidence.

130 CMR 520.009.

#### 520.011: Standard Income Deductions

For community and institutionalized individuals, the MassHealth agency allows certain standard earned- and unearned-income deductions from gross income. These deductions are described in 130 CMR 520.012 through 520.014.

130 CMR 520.011.

#### 520.013: Community Unearned-income Deductions

In addition to business expenses described at 130 CMR 520.010, the MassHealth agency allows the deductions listed below from the total gross unearned income. These deductions do not apply to the income of a community spouse described at 130 CMR 520.026(B). The deductions allowed from the total gross unearned income are the following:

(A) a deduction of \$20 per individual or married couple; or

(B) in determining eligibility for MassHealth Standard, a deduction that is equivalent to the difference between the applicable MassHealth deductible-income standard at 130 CMR 520.030 and 133% of the federal poverty level. This deduction includes, and is not in addition to, the \$20 disregard.

(1) This deduction from gross unearned income is allowed only for persons who

(a) are ■ years of age and older;

(b) are receiving personal-care attendant services paid for by the MassHealth agency, or have been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services; and

(c) prior to applying the deduction at 130 CMR 520.013(B), have countable income that is over 100% of the federal poverty level.

(2) The MassHealth agency will redetermine eligibility without this deduction if

(a) after 90 days from the date of the MassHealth agency eligibility approval notice, the person is not receiving personal-care attendant services paid for by the MassHealth agency or has not submitted, upon request from the MassHealth agency, proof of efforts to obtain personal-care attendant services paid for by the MassHealth agency; or

(b) the MassHealth agency denies the prior-authorization request for personal-care attendant services.

(3) If countable income, prior to applying the deduction at 130 CMR 520.013(B), is greater

than 133 percent of the federal poverty level, eligibility is determined under 130 CMR 519.005(B): *Financial Standards Not Met*.

130 CMR 520.013.

Here, in evaluating eligibility for MassHealth benefits, MassHealth regulations provide that an individual's gross income is considered their countable income. 130 CMR 520.009(A)(1). The Appellant's income is unearned income, and it totals \$3,081.07/month (\$844 + \$2,184.04 + \$53.03 = \$3,081.07). 130 CMR 520.009(D). Subtracting the \$20 Community-Unearned Income Deduction, results in a total of \$3,061.07 (\$3,081.07 - \$20 = \$3,061.07). 130 CMR 520.013(A). As of March 1, 2025, 100% of the federal poverty level for a household of one was \$1,305.00 in monthly income.<sup>4</sup> 130 CMR 520.009(B). Accordingly, the Appellant's monthly income is 234.56% of the federal poverty level (\$3,061.07/\$1,305 = 234.56%). Therefore, because it exceeds 225% of the federal poverty level, his income is too high to qualify for MSP, including the QMB, SLMB, and QI programs. 130 CMR 519.010(A)(2) (QMB=less than 190%); 130 CMR 519.011(A)(1)(b) (SLMB=190-210%), (B)(1)(b) (QI=210-225%). I credit the Appellant's testimony about his health struggles and that his expenses exceed his net income. However, as provided for in the regulations, MassHealth determines an individual's eligibility based on their gross income, and without considering their expenses. Thus, MassHealth did not err in terminating the Appellant's MSP-SLMB benefit 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>4</sup> In 2024, 100% of the federal poverty level for a household of one was \$1,255.00 in monthly income.

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Emily Sabo  
Hearing Officer  
Board of Hearings

cc: [REDACTED]  
[REDACTED]

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104