Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2505749
Decision Date:	07/08/2025	**Hearing Date:**	05/27/2025
Hearing Officer:	Emily Sabo		

Appearance for Appellant:
[redacted]

Appearance for MassHealth:
Mary Frangules, Charlestown 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; Income
Decision Date:	07/08/2025	**Hearing Date:**	05/27/2025
MassHealth's Rep.:	Mary Frangules	**Appellant's Rep.:**	[redacted]
Hearing Location:	Charlestown MassHealth Enrollment Center - Room 2	**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 March 2, 2025, MassHealth notified the Appellant that it had changed his deductible amount due to an increase in his income. Exhibit 1. The notice stated that the Appellant has more countable income than MassHealth Standard or Limited benefits allow and that his deductible was $9,678 for the period of October 1, 2024 to April 1, 2025. *Id.*; 130 CMR 520.002; 130 CMR 520.028. The Appellant filed this appeal in a timely manner on April 10, 2025. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth calculated the Appellant's deductible to qualify for MassHealth Standard as $9,678 due to an increase in his income.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.030, in determining that the Appellant's deductible was $9,678, and his income was too high to qualify for MassHealth Standard.

Summary of Evidence

The hearing officer and the Appellant met at the Charlestown MassHealth Enrollment Center, and the MassHealth representative attended the hearing virtually. 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 as of May 18, 2025, MassHealth had that the Appellant's gross monthly income is $2,155, based on Social Security income, and that his countable assets are $7,413. The MassHealth representative testified that in order to qualify for MassHealth Standard, the Appellant's income would have to be $1,305/month or less, and his countable assets would have to be below $2,000.

The Appellant verified his identity. The Appellant testified that he no longer has the insurance policy that the MassHealth representative referred to as being one of his countable assets. The Appellant testified that he owns a [redacted] that has a reverse mortgage on it. He explained that his son lives downstairs and that his son is unable to work as he [redacted] and keeps losing jobs. The Appellant testified that he agrees that his gross income is $2,155/month, but that he believes his case involves extenuating circumstances. The Appellant testified that his wife died in [redacted] and that his expenses stayed the same but he lost his wife's income. The Appellant explained that he is a retired [redacted] who worked in Massachusetts for an out of state company and that while the appeals court had ruled in the workers' favor, the company had liquidated the pension fund the day of the verdict. The Appellant testified that he has major problems with his knees and that his doctor at [redacted] told him that he needs cortisone shots he every three months and that without them, he will end up in a wheelchair. The Appellant submitted a March 2024 letter from his doctor at Agility stating that the Appellant "has severe osteoarthritis in both knees. He cannot get up from his chair or go up stairs without pain in his knees, due to loss of cartilage in his knees." Exhibit 5 at 1. The Appellant also submitted a letter from another physician from February 2024 stating that the Appellant had been her patient for over ten years and that the Appellant "has become a frail elder with arthritis affecting his major joints. This places him at risk for falling. He is unable to navigate a steep stairway. He shouldn't be shoveling snow, and walking around in mud or slush puts him at an increased risk of falling." Exhibit 5 at 5. The Appellant testified that he also has ulcers. The Appellant testified that he has lived in Massachusetts and paid taxes his whole life, and that he thinks that being denied for MassHealth Standard does not fulfill the intended purpose of the law. The Appellant testified that 7-8 months previously the staff at [redacted] told him that his cortisone shots would no longer be covered. The Appellant testified that he is holding off on

having his knees replaced and he is concerned that his condition will worsen.

In response to the Appellant's testimony, the MassHealth representative testified that the Appellant did not previously have MassHealth Standard, and that the only MassHealth benefit he seems to have previously had is Senior Buy-In, which he continues to be eligible for. The MassHealth representative stated that as the Appellant is enrolled in Medicare, it seemed like he would be eligible for continued cortisone shots and that she suggested he contact his provider to ask. The MassHealth representative stated that Medicare may cap the number of cortisone shots that a member can receive in a year. The Appellant also explained MassHealth's community-based waiver services programs and that the Appellant may be eligible CommonHealth, if he is found to be disabled by Disability Evaluation Services.

The March 2, 2025 notice states that the Appellant has $2,155 in unearned income, with a $20 unearned income disregard, for a total of $2,135. Exhibit 1. MassHealth subtracted $522 for the Massachusetts Income Standard for a household size of one, for a monthly gross deductible amount of $1,613. *Id.*

Findings of Fact

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

1. The Appellant is over the age of 65 and has a household size of one. Testimony, Exhibit 4.

2. The Appellant's gross monthly income is $2,155, based on Social Security income. Testimony.

3. The Appellant's countable assets are $7,413. Testimony.

4. On March 2, 2025, MassHealth notified the Appellant that it had changed his deductible to $9,678 for the period of October 1, 2024 to April 1, 2025, and his countable income is more than MassHealth Standard or Limited benefits allow. Exhibit 1.

5. The March 2, 2025 notice states that the Appellant has $2,155 in unearned income, with a $20 unearned income disregard, for a total of $2,135. MassHealth subtracted $522 for the Massachusetts Income Standard for a household size of one, for a monthly gross deductible amount of $1,613. Exhibit 1.

6. On April 10, 2025, the Appellant filed a timely appeal with the Board of Hearings. Exhibit 2.

Analysis and Conclusions of Law

MassHealth regulations provide the following:

519.002: MassHealth Standard

(A) Overview.

(1) 130 CMR 519.002 through 130 CMR 519.007 contain the categorical requirements and asset and income standards for MassHealth Standard, which provides coverage for individuals 65 years of age and older, institutionalized individuals, and those who would be institutionalized without community-based services.

(2) Individuals eligible for MassHealth Standard are eligible for medical benefits on a fee-for-service basis as defined in 130 CMR 515.001: *Definition of Terms*. The medical benefits are described in 130 CMR 450.105(A): *MassHealth Standard*.

(3) The begin date of medical coverage for MassHealth Standard is established in accordance with 130 CMR 516.005: *Time Standards for Eligibility Determination*.

(B) Automatic Eligibility for SSI Recipients.

(1) Individuals described in 130 CMR 519.002(A)(1) who meet basic, categorical, and financial requirements under the Supplemental Security Income (SSI) program are automatically eligible to receive MassHealth Standard and Medicare Savings Program coverage.

(2) Eligibility for retroactive coverage must be established by the MassHealth agency in accordance with 130 CMR 516.005: *Time Standards for Eligibility Determination*.

(C) Extended Eligibility for SSI Recipients. An individual whose SSI assistance has been terminated, and who is determined to be potentially eligible for MassHealth, continues to receive MassHealth Standard coverage until a determination of ineligibility is made by the MassHealth agency.

(D) Automatic and Extended Eligibility for EAEDC Recipients 65 Years of Age and Older.

(1) Automatic Eligibility. Individuals 65 year of age and older who meet the requirements of the Emergency Aid to the Elderly, Disabled and Children (EAEDC) program administered by the Department of Transitional Assistance and who are United States citizens as described in 130 CMR 518.002: *U.S. Citizens* or qualified noncitizens, as described in 130 CMR 518.003(A)(1): *Qualified Noncitizens*, are automatically eligible for MassHealth Standard benefits.

(2) Extended Eligibility. Individuals described in 130 CMR 519.002(D)(1) whose EAEDC cash assistance ends will continue to receive MassHealth Standard benefits until the MassHealth agency determines that the member is ineligible.

(E) Medicare Premium Payment. The MassHealth agency, in accordance with the Medicare Savings Program as described at 130 CMR 519.010 and 519.011, pays the following:

(1) Medicare Part B premiums for members with countable income that is less than or equal to 225% of the federal poverty level;

(2) Medicare Part A premiums for adult members of MassHealth Standard who are entitled

to Medicare Part A with a countable income that is less than or equal to 190% of the federal poverty level; and

(3) the deductibles and coinsurance under Medicare Parts A and B for members with a countable income that is less than or equal to 190% of the federal poverty level.

130 CMR 519.002.

519.005: 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% 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).

519.007: Individuals Who Would Be Institutionalized

130 CMR 519.007 describes the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home- and community-based services.

. . . .

(B) Home- and Community-based Services Waiver–Frail Elder.

(1) Clinical and Age Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing-facility services to receive certain waiver services at home if they

(a) are 60 years of age or older and, if younger than 65 years old, is permanently and totally disabled in accordance with Title XVI standards; and

(b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home- and Community-Based Services Waiver-Frail Elder authorized under section 1915(c) of

the Social Security Act.

(2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of their marital status. The applicant or member must

(a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b);

(b) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual; and

(c) have countable assets of $2,000 for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and

(d) have not transferred resources for less than fair market value, as described at 130 CMR 520.018: *Transfer of Resources Regardless of the Transfer Date* and 520.019: *Transfer of Resources Occurring on or After August 11, 1993*.

(3) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(B)(2) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or by both.

(C) Program of All-inclusive Care for the Elderly (PACE).

(1) Overview. The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing facility services living in the community.

(a) A complete range of health care services is provided by one designated community-based program with all medical and social services coordinated by a team of health professionals.

(b) The MassHealth agency administers the program in Massachusetts as the Elder Service Plan (ESP).

(c) Persons enrolled in PACE have services delivered through managed care

1. in day-health centers;
2. at home; and
3. in specialty or inpatient settings, if needed.

(2) Eligibility Requirements. In determining PACE eligibility, the MassHealth agency counts the income and assets of only the applicant or member regardless of their marital status. The applicant or member must meet all of the following criteria:

(a) be 55 years of age or older;

(b) meet Title XVI disability standards if 55 through 64 years of age;

(c) be certified by the MassHealth agency or its agent to be in need of nursing facility services;

(d) live in a designated service area;

(e) have medical services provided in a specified community-based PACE program;

(f) have countable assets whose total value does not exceed $2,000 or, if assets exceed these standards, reduce assets in accordance with 130 CMR 520.004: *Asset Reduction*; and

(g) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual.

(3) Income Standards Not Met. Individuals whose income exceeds the standards set forth in 130 CMR 519.007(C)(2) may establish eligibility for MassHealth Standard by meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*.

130 CMR 519.007 (B), (C).

519.009: MassHealth Limited

(A) Eligibility Requirements.

(1) MassHealth Limited is available to community residents 65 years of age and older meeting the financial and categorical requirements of MassHealth Standard coverage as described at 130 CMR 519.005(A) and (B) and who are

(a) other noncitizens described in 130 CMR 518.003(D): *Other Noncitizens*;

(b) qualified noncitizens barred as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*;

(c) nonqualified individuals lawfully present as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*; or

(d) nonqualified PRUCOLs as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*.

(2) Community residents 65 years of age and older who are qualified noncitizens barred, as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*, and nonqualified PRUCOLs, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, may also be eligible for MassHealth Family Assistance if they meet the categorical and financial requirements of 130 CMR 519.013.

(3) Persons eligible for MassHealth Limited coverage are eligible for medical benefits described at 130 CMR 450.105(F): *MassHealth Limited*.

(B) Use of Potential Benefits. All individuals who meet the requirements of 130 CMR 519.009 must use potential health-insurance benefits in accordance with 130 CMR 517.008: *Potential Sources of Health Care* and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than he or she would pay without access to health insurance. Members must access those other health-insurance benefits and must show both their private health-insurance card and their MassHealth card to providers at the time services are provided.

(C) Coverage Date. The begin date of medical coverage is established in accordance with 130 CMR 516.005: *Coverage Date*.

130 CMR 519.009.

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;

(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.

520.003: Asset Limit

(A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits:

(1) for an individual — $2,000; and

130 CMR 520.003(A)(1).

520.004: Asset Reduction

(A) Criteria.

(1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or

(b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

(1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: *Date of Application*; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

130 CMR 520.004.

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.

. . . .

(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).

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 65 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.

520.028: Eligibility for a Deductible

The following individuals may establish eligibility by meeting a deductible:

(A) former SSI recipients who are not eligible under the Pickle Amendment;

(B) community-based individuals whose countable-income amount exceeds the 100 percent federal poverty level income standards;

(C) long-term-care-facility residents whose income, after general deductions described in 130 CMR 520.026, exceeds the public rate in a long-term-care facility;

(D) disabled adult children whose incomes exceed the standards set forth in 130 CMR 519.004(A): *Eligibility Requirements*; and

(E) persons who are eligible for an increased disregard as described at 130 CMR 520.013(B).

130 CMR 520.028.

520.029: The Deductible Period

The deductible period is a six-month period that starts on the first day of the month of application or may begin up to three months before the first day of the month of application. The applicant is eligible for this period of retroactivity only if the applicant incurred medical expenses covered by MassHealth and was otherwise eligible.

130 CMR 520.029.

520.030: Calculating the Deductible

The deductible is determined by multiplying the excess monthly income by six. 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.

MASSHEALTH DEDUCTIBLE-INCOME STANDARDS		
Number of Persons	Monthly-Income Standard for Community Residents	Monthly-Income Standard for Long-term-care-facility Residents
1	$522	$72.80
2	650	

130 CMR 520.030.

520.031: Notification of Potential Eligibility

(A) The MassHealth agency informs the applicant who has excess monthly income that he or she is currently ineligible for MassHealth Standard, Family Assistance, or Limited but may establish eligibility for a six-month period by meeting the deductible. The MassHealth agency informs the applicant in writing of the following:

(1) the deductible amount and the method of calculation;

(2) the start and end dates of the deductible period;

(3) the procedures for submitting medical bills;

(4) his or her responsibility to report all changes in circumstances that may affect eligibility or the deductible amount; and

(5) that the bills submitted to meet the deductible are the responsibility of the individual and cannot be submitted for MassHealth agency payment.

(B) A member who has established eligibility based upon meeting a deductible is only eligible for MassHealth Standard, Family Assistance, or Limited until the end of the deductible period. At the end of the deductible period, the MassHealth agency notifies the member in writing of a new deductible period and amount, if the countable-income amount continues to exceed applicable income standards.

130 CMR 520.031.

520.032: Submission of Bills to Meet the Deductible

(A) Criteria. To establish eligibility by meeting a deductible, the individual must submit verification of medical bills whose total equals or exceeds the deductible and that meet the following criteria.

(1) The bill must not be subject to further payment by health insurance or other liable third-party coverage, including the Health Safety Net.

(2) The bill must be for an allowable medical or remedial-care expense in accordance with 130 CMR 520.032(B). A remedial-care expense is a nonmedical support service made necessary by the medical condition of the individual or the spouse.

(3) The bill must be unpaid and a current liability or, if paid, paid during the current six-month deductible period.

(4) Any bill or portion of a bill used to meet a deductible may not be applied to any other deductible period. However, any portion of a bill not used to meet the current deductible may be used in a future deductible period. The MassHealth agency will not pay any bills or portions of bills that are used to meet the deductible. These bills remain the responsibility of the applicant.

(B) Expenses Used to Meet the Deductible. The MassHealth agency applies bills to meet the deductible in the following order:

(1) Medicare and other health-insurance premiums credited prospectively for the cost of six months' coverage, deductibles, enrollment fees, or coinsurance charges incurred by the individual and the spouse;

(2) expenses incurred by the individual and the spouse for necessary medical and remedial-care services that are recognized under state law but are not covered by MassHealth, including guardianship fees and related expenses as described in and allowed under 130 CMR 520.026(E)(3); and

(3) expenses incurred by the individual, a family member, or financially responsible relative for necessary medical and remedial-care services that are covered by MassHealth.

(C) Expenses that Cannot be Used to Meet the Deductible. Expenses that may not be applied to meet the deductible include, but are not limited to, the following:

(1) cosmetic surgery;
(2) rest-home care;
(3) weight-training equipment;
(4) massage therapy;
(5) special diets; and
(6) room-and-board charges for individuals in residential programs.

130 CMR 520.032.

520.033: Verification of Medical Expenses

(A) Medical expenses must be verified by a bill or written statement from a health-care provider with the exception of expenses for nonprescription drugs, which must be verified by a receipt from the provider of the drug. Any unpaid bill incurred before the deductible period must be verified by a bill dated within the six-month deductible period.

(B) Verifications must include all of the following information:

(1) the name of the provider;
(2) the type of service provided;
(3) the name of the individual for whom the service was provided;
(4) the amount charged for the service including the current balance; and
(5) the date of service.

130 CMR 520.033.

520.034: Interim Changes

The applicant or member must notify the MassHealth agency of any changes occurring before meeting the deductible or during the deductible period. These changes include an increase or decrease in income or an increase in assets.

130 CMR 520.034.

520.035: Conclusion of the Deductible Process

When the total of submitted bills is equal to or greater than the deductible and all other eligibility requirements continue to be met, the MassHealth agency notifies the applicant that he or she is eligible. The member is eligible for payment of all covered medical expenses incurred during that deductible period, other than those submitted to meet the deductible, as long as the member continues to meet all other eligibility requirements during the balance of the deductible period.

130 CMR 520.035.

In 2025, 100% of the federal poverty level is an income of $1,305/monthly for a household of one. Here, the Appellant agrees that his monthly income is $2,155 and subtracting the $20 unearned income deduction results in a total of $2,135. 130 CMR 520.013(A). This exceeds 100% of the federal poverty level. Accordingly, the Appellant is not financially eligible for MassHealth Standard. 130 CMR 519.005(A)(1). Based on the information provided at hearing, the Appellant's countable assets also exceed $2,000. 130 CMR 519.005(A)(2). Because he does not meet the eligibility requirements for MassHealth Standard, he is also not eligible for MassHealth Limited. 130 CLR 519.009(A)(1).[1]

The Appellant's total countable income of $2,135/month is 163.6% of the federal poverty level ($2,135/$1,305 = 163.6%). Therefore, the MassHealth representative is correct that the Appellant is eligible for the Medicare Savings Program—Qualified Medicare Beneficiaries buy-in program, where MassHealth pays for the Appellant's "Medicare Part A and Part B premiums and for deductibles and coinsurance," because his income is less than 190% of the federal poverty level. 130 CMR 519.010(A)(2), (B).[2]

As an individual living in the community whose income exceeds 100% of the federal poverty level, the Appellant is eligible for MassHealth benefits through meeting a deductible. 130 CMR 520.028. Calculating the deductible, beginning with the Appellant's countable income amount of $2,135, and subtracting the community deductible amount of $522 for a household of one, results in a total of $1,613/month, or 9,678 for a six-month period ($2135 - $522 = $1613 x 6 = $9678). 130 CMR 520.030. Consequently, MassHealth did not err in calculating the Appellant's deductible and sending the March 2, 2025 notice and the appeal is denied.

I have carefully listened to the Appellant's testimony regarding his extenuating circumstances and the evidence he provided of his health conditions and expenses. *See* Exhibits 2 and 5. I am sorry for the hardships he has experienced and the challenges he is facing. However, the MassHealth regulations regarding financial eligibility do not allow for considerations beyond the Appellant's

[1] If the Appellant reduces his countable assets below $2,000, and is determined to be clinically eligible, because his income is less than 300% of the federal poverty level, he may be eligible for the frail elder or PACE waiver programs outlined in 130 CMR 519.002(B) and (C).

[2] The Appellant's MMIS print out indicates that he has Senior Buy-in as an ongoing benefit. Exhibit 4.

countable income. To the extent that the Appellant's testimony and arguments are a challenge to the legality of the MassHealth regulations, in accordance with 130 CMR 610.082(C)(2), as the hearing officer, I

> 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).

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.

Emily Sabo
Hearing Officer
Board of Hearings

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