

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



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|-------------------------|-----------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2514155 |
| Decision Date: | 11/4/2025 | Hearing Date: | 10/27/2025 |
| Hearing Officer: | Thomas J. Goode | | |

Appearance for Appellant:
Son/DPOA

Appearance for MassHealth:
Gaelle Duteau, Quincy 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

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|---------------------------|---------------|--------------------------|-----------------------------|
| Appeal Decision: | Denied | Issue: | Waivers: Frail Elder Waiver |
| Decision Date: | 11/4/2025 | Hearing Date: | 10/27/2025 |
| MassHealth's Rep.: | Gaelle Duteau | Appellant's Rep.: | Son/DPOA |
| Hearing Location: | Remote | 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 September 16, 2025, MassHealth denied Appellant's application for MassHealth Home and Community Based Waiver services because income exceeds program limits; MassHealth calculated a deductible (130 CMR 520.009, 519.007, 520.028 and Exhibit 1). Appellant filed this appeal in a timely manner on September 29, 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 denied Appellant's MassHealth application for Home and Community Based Waiver services and calculated a deductible, because MassHealth determined that income exceeds program limits.

Issue

The appeal issue is whether MassHealth correctly denied Appellant's MassHealth application for Home and Community Based Waiver services and calculated a deductible after determining that income exceeds program limits.

Summary of Evidence

The MassHealth representative testified that Appellant is a community resident who lives in a household size of one person over 65 years of age and was clinically approved for services through the Frail Elder Waiver Program effective September 2, 2025.¹ On September 16, 2025, MassHealth issued notice informing Appellant that his application for Home and Community Based Waiver services through the Frail Elder Waiver (FEW) Program was denied because, although Appellant was determined clinically eligible for FEW services, his income exceeds FEW program limits (Exhibit 1). MassHealth testified that Appellant's income consists of Social Security totaling \$3,215 per month and a private pension of \$59.78 for total income of \$3,274 per month. For services through the FEW program, income cannot exceed 300% of the Federal Benefit Rate, currently \$2,901. The income limit for MassHealth Standard for persons aged 65 and older living in the community is 100% of the federal poverty level, \$1,305 per month for a household size of one. Because Appellant's countable income exceeds \$1,305 a month, Appellant is not financially eligible for MassHealth Standard. MassHealth calculated a monthly deductible of \$2,547 from September 2025 to February 2026. The MassHealth representative testified that Appellant has not completed a disability supplement, and a determination of disability could allow CommonHealth coverage if employment is documented. Appellant has not submitted the supplemental form regarding his need for personal-care attendant ("PCA") services, however, Appellant's income would still exceed program limits with a PCA disregard. MassHealth testified that Appellant must meet the \$2,547 monthly deductible to establish eligibility for MassHealth Standard coverage.

Appellant's representative testified that Appellant's income should be reduced by the amount deducted from his Social Security income to pay his part B premium of \$185 per month and further reduced by \$274 to offset monthly medical expenses incurred for visiting nurse services to set up Appellant's medications (Exhibit 2, p. 7). He added that Medicare will not cover nursing services, and because Appellant is clinically eligible for FEW services, his application should be approved.

Findings of Fact

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

1. Appellant is over age 65 and lives in a one-person household in the community.
2. Appellant has not submitted a disability supplement and has not been determined disabled.
3. Appellant was clinically approved for services through the Frail Elder Waiver Program effective September 2, 2025.
4. Appellant's income consists of Social Security totaling \$3,215 per month and a private pension of \$59.78 for total monthly income of \$3,274.

¹ See Exhibit 2, p. 8, for 9/4/2025 clinical approval notice.

5. 300% of the Federal Benefit Rate is \$2,901.
6. Appellant has not submitted the supplement form regarding a need for personal-care attendant (“PCA”) services.
7. 100% of the federal poverty level for a household size of one person is \$1,305 per month.
8. 133% of the federal poverty level is \$1,735 a month for a household size of one.

Analysis and Conclusions of Law

The MassHealth regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for applicants over age 65. The type of coverage for which a person is eligible is based on the person's and spouse's income and assets as described in 130 CMR 519.000 (130 CMR 515.003(B)). The categorical requirements and financial standards that must be met for a MassHealth coverage type are set forth in MassHealth Regulations 130 CMR 519.000 through 519.013.

Pursuant to 130 CMR 519.005(A), an individual would meet the requirements of MassHealth Standard coverage if:

- (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 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.

An individual's countable income amount refers to the individual's gross earned and unearned income² less certain business expenses and standard income deductions (130 CMR 520.009). MassHealth allows a \$20 deduction per individual or couple from the member's total gross unearned income (130 CMR 520.013(A)). If an individual exceeds these standards, he or she may establish eligibility by meeting a deductible. See 130 CMR 519.005(B). Appellant's income consists of Social Security totaling \$3,215 per month and a private pension of \$59.78 for total monthly income of \$3,274; minus the \$20 deduction, Appellant's countable income equals \$3,254. Based on current MassHealth Income Standards and Federal Poverty Guidelines, the income limit for MassHealth Standard is 100% of the FPL, or \$1,305 a month for an individual over the age of 65 in a household size of one. Thus, Appellant is over income for MassHealth Standard coverage.

² 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. See 130 CMR 520.009(D).

Pursuant to 130 CMR 519.007, the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home- and-community-based services is as follows:

...(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.
130 CMR 519.007(B).

To be eligible under the FEW, an individual must meet **both** clinical and financial eligibility requirements. There is no dispute that Appellant's assets are within program guidelines. Moreover, Appellant is clinically eligible for services through the Frail Elder Waiver. However,

Appellant's income exceeds 300% of the federal benefit rate (FBR), which is \$2,901.³ Countable income for purposes of determining eligibility under the FEW does not include a deduction from income for the Medicare Part B premium payment as asserted by Appellant's representative. See 130 CMR 520.009, 519.007(B)(2)(b), 520.013(A). Therefore, due to income that exceeds FEW limits, Appellant is not financially eligible for services through the Frail Elder Waiver, and MassHealth correctly determined that Appellant must meet a six-month deductible before eligibility can be established (130 CMR 519.005(B); 519.007(B)(3), 520.028).⁴

Appellant's countable income for the deductible calculation is \$3,254 as described above. The MassHealth Income Standard applicable to an individual aged 65 or older residing in the community is \$522 per month for a household of one (130 CMR 520.030). The deductible is the total dollar amount of incurred medical expenses that an individual is responsible for before MassHealth eligibility is established (130 CMR 520.031). The deductible period is six months, and the deductible is determined by multiplying the excess monthly income by six (130 CMR 520.029, 520.030). The excess monthly income is the amount by which Appellant's countable income exceeds the MassHealth Income Standard (130 CMR 520.030). Appellant's countable income of \$3,254 as calculated above exceeds the MassHealth income standard of \$522 by \$2,732. For purposes of calculating the deductible, MassHealth allowed a \$185 deduction for the Medicare Self Pay Amount which is an allowable expense and is applied toward the deductible amount. See 130 CMR 520.032(B)(1). Notwithstanding the deduction for the Medicare premium payment allowed by MassHealth for the deductible calculation, the Medicare premium payment deduction does not reduce countable income for FEW financial eligibility purposes as discussed above. The deductible calculation arrives at a monthly net deductible amount of \$2,547.⁵ The excess income amount is multiplied by 6 to arrive at the six-month deductible amount of \$15,282 (Exhibit 1, p. 2).⁶ Accordingly, the MassHealth determination by notice dated September 16, 2025

³ See 20 CFR § 416.1101: *Federal benefit rate* means the monthly payment rate for an eligible individual or couple. See also <https://www.ssa.gov/ssi/text-benefits-ussi.htm>: Effective January 1, 2025, the Federal benefit rate is \$967 for an individual. Thus, 300% of the federal benefit rate is \$2,901.

⁴ MassHealth allows a PCA deduction pursuant to 130 CMR 520.013(B) in determining countable income where an over 65 applicant is either "receiving personal-care attendant services paid for by the MassHealth agency, or [has] been determined by the MassHealth agency, through initial screening or by prior authorization, to be in need of personal-care attendant services" (130 CMR 520.013(B)). However, if the applicant's countable income exceeds 133% of the federal poverty level prior to applying the PCA disregard, then eligibility for MassHealth benefits must be established by meeting a six-month deductible (130 CMR 520.013(B)(3); 130 CMR 520.028). Appellant's countable income before accounting for any PCA deduction is \$3,254 per month, which exceeds 133% of the federal poverty level for a household of one person, currently \$1,305. Thus, although Appellant has not submitted a PCA supplement, he is not financially eligible for MassHealth Standard for community residents, notwithstanding the application of a PCA income deduction (130 CMR 520.012(B)(3)). Moreover, Appellant has not been determined disabled and is not employed and therefore does not meet requirements as a working disabled adult at 130 CMR 519.012(A).

⁵ \$3,254 - \$522 - \$185 = \$2547.

⁶ The \$274 monthly medical expenses documented by Appellant's representative may be applied toward meeting the deductible, but do not reduce countable income for FEW eligibility purposes as asserted (Exhibit 2, p. 2). Further, 130 CMR 506.004 Non-Countable Household Income, applies to community applicants under 65 years of age.

is correct, 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.

Thomas J. Goode
Hearing Officer
Board of Hearings


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