



## **COMMUNITY MEDICAID (MASSHEALTH) BENEFITS Programs for Older Adults at Risk for Institutionalization**

In addition to providing long-term care (LTC) coverage, Medicaid (known as MassHealth in Massachusetts) offers community benefits that enable older adults to stay at home while still receiving necessary care. Community MassHealth offers various programs and services to individuals age 65 and older who meet both financial and medical qualifications. Those under age 65 can also qualify if they are permanently disabled, although different rules apply. Individuals who are eligible for MassHealth insurance can also be covered by their own private insurance. For those older adults who wish to live at home, MassHealth offers various programs that allow an older adult to receive care within their home. Adult and supportive day care, transportation and caretaker services are among a multitude of benefits that MassHealth provides to empower older adults to live at home. An experienced elder law attorney can help an individual determine which program might be most appropriate for each older adult's particular circumstances.

Note that qualifying for MassHealth in a community setting does not translate into coverage in a nursing home setting. Planning for community MassHealth may have adverse consequences for achieving nursing home eligibility if not done properly, as the income and asset rules vary for all benefits. For example, the transfer rules differ in a community setting from the long-term care nursing home rules. In addition, be advised that there could be estate recovery claims. *See Chapter 3, Section O for more information.* Therefore, one should consult with an attorney who is well-versed in these matters. Regulations and agency practices also change regularly.

### **A. Home- and Community-Based Services Waivers**

For older adults who require nursing home-level care, but would like to live at home or in a residential community, Home- and Community-Based

Services Waivers, also referred to as the Frail Elder Waiver (FEW), authorize MassHealth to pay for those services, regardless of the number of hours needed. The waiver program serves three important purposes: (1) saves the state money; (2) allows the older adult to remain at home with care; and (3) provides older adults with greater choices in their care. Under the FEW program, the responsibility of care for the older adult is shifted to family members, home care agencies or other designated caregivers. The goals of the program are to help older adults age outside of a nursing home, and to promote independent living. If an older adult qualifies for the FEW, they can participate in the Community Choices or Personal Care Attendant (PCA) programs, the Program of All-inclusive Care for the Elderly (PACE), or senior care options (SCOs), if eligible.

The FEW allows those older adults who are eligible for nursing home care to receive services at home.<sup>1</sup> To qualify for the waiver, an older adult must either be at least 65 years old or, if under 65, be permanently and totally disabled.<sup>2</sup> Additionally, the individual must meet a clinical requirement and show that, if they did not receive waiver services, they would require institutionalization (nursing home care).<sup>3</sup> In addition to the typical asset limitation of \$2,000 for MassHealth services, the waiver imposes a 2023 income threshold of \$2,742 per month. For couples, the income of the healthy spouse is not counted in determining eligibility. The non-applicant spouse's assets, however, are limited to \$148,620 (2023) (other than for the PACE program), but it is often beneficial to apply for only one spouse or to apply separately. Note that a recent MassHealth hearing decision found that LTC insurance benefits are not considered income when determining eligibility for the FEW program. Although the administrative decision is not binding on MassHealth, it should be mentioned at the time of application, if appropriate.

If an individual's gross monthly income is greater than \$2,742, there will be a recurring six-month

deductible that must be met before MassHealth coverage will begin. For example, if a single applicant's gross monthly income is \$2,792 (\$50 over the income limit), the Medicaid \$522 standard (less a \$20 income disregard) is applied and subtracted from \$2,792. That figure, \$2,250, is then multiplied by six, and as a result, a \$13,500 deductible must be met every six months before MassHealth benefits will begin/resume. This amount has to be paid out of pocket for medical or remedial expenses by the individual (remember, this individual can only have \$2,000 of assets) every six months, and then proof of payment has to be sent to MassHealth before becoming eligible for benefits. This approval is not retroactive, and then the individual has to meet this deductible every six months. \*Note, if the income of an individual who was deemed eligible for the FEW (300% of the Federal Benefit Rate (FBR) or less) increases to a sum that exceeds this amount, the individual may still continue receiving benefits by paying the difference between their actual income and 300% of the FBR as a co-pay.

Applicants seeking coverage under the PCA program may have lower recurring deductibles, since an additional \$1,094 PCA disregard is subtracted from their gross income, resulting (using the prior example) in a monthly deductible of \$1,176, which, when multiplied by six, imposes a \$7,056 deductible (as opposed to a \$13,500 deductible) that must be met every six months to maintain eligibility. An individual needing only 12-15 hours of care each week might benefit from applying for MassHealth benefits to cover care after the deductible is met.

Applicants must meet any deductible by paying qualifying medical expenses, including Medicare and supplemental health (Medigap), prescription and dental insurance premiums. Once the deductible is satisfied, MassHealth covers services for the balance of the six-month period, and the individual may retain all of their income. In many cases, however, individuals find that they can meet the recurring six-month deductible only if they have access to other resources (non-countable VA Aid and Attendance benefits, or family or spousal assets, for example, as assets are limited to \$2,000 for a single individual and \$3,000 for a married couple). Advocacy and legislative efforts are underway to reduce the deductible amounts, with the goal of ensuring that more individuals may remain at home, but it

is unclear whether or when they will be successful.

Because MassHealth does not impose penalties for transferred assets in community cases, it is imperative that all applicants, but particularly those who anticipate having the recurring deductible, do not spend down their assets to \$2,000. Instead, they should move excess assets out of their name to a trusted individual (who may have to return them, if long-term nursing home care is needed later), so that funds will be available for medical and non-medical expenses. This should be done ONLY with the advice of an experienced elder law attorney.

Services and benefits of the FEW include MassHealth coverage of adult day health and supportive day programs. Supportive day is a social model day program, and adult day health is a medical model day program for older adults who need supervision and health services during the day, but will return home at the end of the day (the individual can leave home for services and be covered by the waiver). In addition, MassHealth covers home health services under the waiver. Additional benefits may include home-delivered meals, home modifications to improve accessibility, and transportation assistance for medical or other appointments.

## 1. Community Choices (FEW)

Community Choices is a more care-intensive program for FEW participants who either face imminent nursing home placement or currently reside in a nursing home but wish to return home or to the community. To be eligible, the older adult must be already enrolled in or eligible for the FEW. The program provides extensive home- and community-based services to older adults who require nursing home-level care and exhibit at least one of four indications of frailty:

- Actively sought nursing home facility care within the last six months;
- Recently experienced a serious medical event, regression in physical or cognitive functional ability, or a cumulative deterioration in functional ability;
- Was discharged from a nursing facility within the last 30 days; or
- Is at risk of nursing facility admission due to the instability or lack of capacity of informal or formal supports.

Services are also provided to older adults who exhibit at least one of five clinical characteristics demonstrating risk:

- Needs 24-hour supervision because of complex health conditions;
- Experiences a significant cognitive impairment;
- Is unable to manage/administer prescribed medications;
- Experiences frequent episodes of incontinence; or
- Requires daily supervision and assistance with two activities of daily living (ADLs).

ADLs are activities performed by a PCA to physically assist a member to transfer, take medications, bathe or groom, dress and undress, engage in passive range of motion exercises, eat and toilet.<sup>4</sup>

Services are provided by an agency hired through MassHealth and administered through the local Aging Service Access Point (ASAP). Community Choices offers more hours of service than any other similar program, and the care can often be put in place more quickly than other community care programs. Services offered include personal care, homemakers, nursing, companions, chore assistance, delivered meals, grocery delivery, laundry, transportation, home-based wander response systems, transitional assistance, and supportive day and adult day health.<sup>5</sup>

## 2. PACE

The PACE program provides comprehensive medical and social services to frail older adults so as to allow them to live in their communities and to receive all of their health services under the same umbrella.<sup>6</sup> To be eligible, an individual must: (1) be 55 years of age or older; (2) live in a service area of a PACE organization; (3) be able to live safely in the community; (4) be certified by the state as eligible for nursing home care; and (5) agree to receive health services exclusively through the PACE organization.<sup>7</sup> All of the medical services are provided by MassHealth at no cost to the older adult. Financial eligibility is in accordance with all other MassHealth programs, and therefore, an individual's assets cannot exceed \$2,000 and a couple's assets cannot exceed \$3,000<sup>8</sup> if both

are seeking coverage. Under current practice, if only one member of a couple needs services, the non-applicant spouse's income and assets will be disregarded. In addition, the income threshold for an individual is \$2,742 (with a deductible imposed if the applicant's income exceeds this figure).

Through PACE, MassHealth will coordinate care for the older adult and provide the individual with medical professionals, including doctors, nurses, aides, therapists and social workers. Under this program, the older adult receives their primary care, emergency care, prescription drugs, in-home services, transportation and more. The services are available 24 hours a day, seven days a week.

## 3. Personal Care Attendant (PCA) Program

The PCA program provides personal care services to older and disabled Massachusetts residents who wish to remain living at home. The PCA program is administered by MassHealth and seeks to enable independent living and prevent unnecessary or premature nursing home institutionalization. While MassHealth pays the caregivers, participants in this program or their surrogates are responsible for directing the care to assist with ADLs and instrumental activities of daily living (IADLs). A PCA participant or their surrogate acts as an employer, and can hire friends, neighbors or certain family members (spouses and legal guardians are not eligible) to be their personal care attendant.<sup>9</sup> Effective April 1, 2023, the PCA wage rate is \$18 per hour. Based on the federal poverty levels, effective Jan. 13, 2023, the MassHealth PCA disregard amount is \$1,094 for an individual and \$1,536 for a couple.

To be eligible for the program, an individual must have a permanent or chronic disability that requires them to receive assistance to perform at least two ADLs. ADLs are activities performed by a PCA to physically assist a member to transfer, take medications, bathe or groom, dress and undress, engage in passive range of motion exercises, eat and toilet. A doctor or nurse practitioner must prescribe the services for the older adult, and the services must be medically necessary.<sup>10</sup> Additionally, the older adult must meet the \$2,000 asset limitation to qualify for MassHealth and a \$3,000 asset limitation for a couple. Each PCA applicant is assessed by a nurse and occupational therapist during enrollment in the program to determine the number of hours per

week assistance is required; MassHealth will then provide a budget for care services. Benefits include assistance with ADLs (e.g., bathing, grooming, eating, etc.), IADLs (e.g., homemaker services, laundry, meal preparation, etc.) and transportation. A personal care attendant may not be paid: (a) to help an older adult who is in a hospital, nursing facility or in a community program funded by MassHealth; (b) to provide social services, such as babysitting, recreation or educational activities; or (c) to provide medical services that are available from other MassHealth providers.<sup>11</sup>

#### 4. Senior Care Options

Senior Care Options (SCO) is a no-cost health insurance and care program for individuals eligible for MassHealth and Medicare who are 65 or older, and it offers health services with social support services. SCO members receive all covered health services through the SCO plan, and they have a primary care physician (PCP) who is affiliated with the SCO, 24-hour access to care and active involvement in decisions about their care. All services are provided by the SCO and the PCP, and a team of nurses, specialists, and geriatric support services professionals develops an individualized plan of care. Enrollment is voluntary and open to MassHealth standard members who: (1) are 65 or older; (2) reside in an area serviced by an SCO; (3) live at home or in a long-term care facility; (4) do not have to meet a recurring six-month deductible; and (5) do not have end-stage renal disease. The benefits for SCO members include all health services covered by MassHealth Standard, as well as coordination of care, including a centralized record of medical information, individualized assessment, primary and specialty medical care, preventive care, emergency care, X-rays and lab tests, medical supplies and equipment, prescription drugs, mental health and substance abuse treatment, rehabilitative therapy, nursing facility care (if needed), transportation for services, geriatric support services, adult day care, dental care and eye care, home care services and family caregiver support.

**NOTE TO SCO AND PACE MEMBERS:** If you enroll in MassHealth, and leave a probate estate, MassHealth will have an automatic lien against your estate. MassHealth will seek reimbursement not for the costs of medical care and treatment, but for the monthly premiums, which MassHealth pays to the SCO on your behalf. MassHealth starts making the premium payments in the month after you enroll, and the payments could be as much as \$3,000 per month.

If you are enrolled in SCO or PACE, you should discuss ways to avoid probate with an elder law attorney in order to avoid any estate recovery lien.

#### B. Other Programs for Older Adults

MassHealth also offers community programs to those older adults who are not at risk for institutionalization, but nonetheless require help within the home. These programs help prevent an older adult from entering a long-term care facility and aim to promote independent living among older adults.

##### 1. SSI-G/Group Adult Foster Care

The SSI-G (the Supplemental Security Income assisted living benefit) and Group Adult Foster Care (GAFC) programs are designed for older adults who wish to transition to assisted living facilities (by statute referred to as assisted living residences), but cannot afford the monthly rates. The GAFC program pays a daily rate to the assisted living facility directly for personal care and services, while the SSI-G component helps pay for the rent portion at an assisted living facility to the individual directly. An individual can get GAFC benefits without SSI-G. GAFC pays \$43.53 per day (\$1,324 per month) directly to the assisted living facility for services, such as daily personal care, homemaking, meals and transportation. The assisted living facility may combine the GAFC services with the room and board, which is paid by the resident, and the SSI-G program. The resident does not have to apply for or be eligible to receive SSI-G in order to qualify for GAFC. New regulations have been implemented for GAFC and can be found at 130 CMR 408.502 through 408.527.

Certain assisted living facilities offer a limited number of beds for applicants who meet certain eligibility criteria: (1) over the age of 60 or chronically disabled; (2) have a medical, physical,

cognitive or mental condition that limits their ability to care for themselves; (3) need daily help with one or more ADLs (e.g., dressing, bathing, eating or toileting); (4) have the ability to live independently, with support services; (5) meet eligibility requirements for public housing, GAFC, ElderChoice subsidized rents and/or SSI-G; (6) do not need full-time skilled nursing care; and (7) are medically approved for assisted living by their physician and Aging Services Access Point (ASAP).

To qualify for GAFC, an individual may not have more than \$2,000 in countable assets, and a couple may not have more than \$3,000 in countable assets. Because MassHealth does not impose penalties for transferred assets in community cases, it is imperative that all applicants, but particularly those who anticipate having the recurring deductible, do not spend down their assets to \$2,000. Instead, they should move excess assets out of their name to a trusted individual (who may have to return them, if long-term nursing home care is needed later), so that funds will be available for medical and non-medical expenses. This should be done ONLY with the advice of an experienced elder law attorney.

In addition, if an individual's income is greater than \$1,215 (2023), or a couple's income is greater than \$1,643 if both spouses are applying (100% of federal poverty level), there will be a recurring six-month deductible.

Applicants must satisfy the deductible by paying qualifying medical expenses, including Medicare and supplemental health insurance premiums. Because only a portion of the monthly assisted living fee qualifies as a medical expense (the majority is considered room and board), individuals who are required to meet deductibles may have to pay as much as four times the amount of the deductible figure. Therefore, in cases where an applicant needs to meet a recurring six-month deductible, GAFC eligibility can be maintained only if the individual has access to other resources (non-countable VA Aid and Attendance benefits, or spousal or family assets, for example). Once GAFC benefits are in effect, the resident is required to contribute their income toward the

monthly rent portion; GAFC pays the medical portion.

## 2. Massachusetts Adult Family Care

The Adult Family Care program is a relatively new MassHealth program that provides care to older or disabled individuals by having the older adult move into a caregiver's home or having a caregiver move into the older adult's home. Similar to all MassHealth programs, the applicant must have less than \$2,000 in assets to qualify. Eligible caregivers include family members, friends or a professional service. Spouses and legal guardians are not eligible caregivers. Care givers are paid for the 24-hour personal care they provide, and typically offer assistance with ADLs and instrumental ADLs. Although MassHealth will not pay for the room and board of the individual, depending on the level of care, caregivers receive an annual tax-free payment of between \$9,000 and \$18,000 from MassHealth, with the payment based on the level of care needed. Caregivers also can receive as many as 14 respite care days per year.

To be eligible for Adult Family Care, the applicant must be 16+ or disabled and require either help with one ADL (level 1) or 24-hour assistance with ADLs (level 2). Care requirements, however, cannot be so severe as to necessitate residency in a nursing home.

## OTHER IMPORTANT OLDER ADULT PROGRAMS

### A. Statewide Nutrition Programs

The Elderly Nutrition Program, administered by the Executive Office of Elder Affairs, allows local agencies to provide nutritious meals to older adults. Meals are provided at congregate meal sites, such as senior centers, churches, schools and other locations. The congregate setting provides opportunities for socialization and companionship. It also offers programs related to nutrition education, exercise activities, health promotion and disease prevention. Some programs also offer meals on weekends. Transportation is often available for those who have trouble getting around on their own. The Elderly Nutrition Program also provides home-delivered

meals to older adults (age 60 or older) and handi-capped or disabled people under age 60 who live in housing facilities occupied primarily by older adults where congregate meals are served.

Each meal contains at least one-third of the current daily Recommended Dietary Allowance of nutrients and considers the special dietary needs of older adults. In addition to providing meals, the Elderly Nutrition Program provides access to social and rehabilitative services.

To apply for one of the elderly nutrition programs, contact the Executive Office of Elder Affairs at (800) 882-2003 to find the elderly nutrition agency nearest to you.

## **B. Prescription Advantage**

Prescription Advantage is a prescription drug insurance plan available to all Massachusetts residents age 65 and older, as well as younger individuals with disabilities who meet income and employment guidelines. An older adult is eligible for the program if they are not receiving prescription drug benefits under Medicaid. Individuals receiving Medicare benefits may be eligible for assistance with paying for prescription drug costs (also known as “Extra Help”) from Social Security. In order to receive this assistance, an application must be submitted to Social Security.

## **C. Pharmacy Outreach Program**

The Massachusetts College of Pharmacy and Health Sciences (MCPHS) Pharmacy Outreach Program is a community service offered by the university. The purpose of the Pharmacy Outreach Program is to work closely with local and statewide health care resources, physicians and older adults to help relieve the burden of medication expenses. Any Massachusetts resident may utilize the MCPHS Pharmacy Outreach Program toll-free telephone number, (866) 633-1617, to inquire about prescription drug medication support programs that are available at low cost or free of charge. The website is [www.MCPHS.edu/PharmacyOutreach](http://www.MCPHS.edu/PharmacyOutreach). Consumers can ask any questions regarding their medications and general health

## **D. Serving the Health Information Needs of Everyone Program**

The Serving the Health Information Needs of Everyone (SHINE) program provides health insurance counseling services to older and disabled adults. SHINE counselors are trained to handle complex questions about Medicare, Medicare supplements, Medicare Health Maintenance Organizations, public benefits with health care components, Medicaid, free hospital care, prescription drug assistance programs, drug discount cards and long-term health insurance.

SHINE counselors help older adults and Medicare beneficiaries understand their rights and benefits under Medicare and other health insurance coverage. Counselors can identify and compare current options, and protect older adults from paying too much for their medical care. SHINE counselors also help older adults learn how to fill out insurance claims forms and public benefits applications.

SHINE counselors are available at most councils on aging, senior centers and Aging Services Access Points, hospitals and libraries. Counselors are also available for homebound clients. To locate a SHINE counselor in your community, contact your regional SHINE program at <https://www.sec.state.ma.us/cis/ciscig/o/o3.htm>.

## **CONCLUSION**

A long-term nursing facility is not the only choice for an older adult. There are a multitude of options for older adults who require medical care or assistance with everyday life, but do not wish to enter a nursing home. One of MassHealth’s community programs might be the solution for a qualified older adult to remain at home and independent. Applying for the above programs can be very complicated. Practices and policies often differ among MassHealth workers and offices. Individuals seeking eligibility should consult with an experienced elder law attorney knowledgeable about these programs.

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1. 130 C.M.R. 519.007(B).
2. 130 C.M.R. 519.007(B)(1)(a); *see also* 56 MASS PRACTICE SERIES ELDER LAW § 7.46.
3. 130 C.M.R. 519.007(B)(1)(b).
4. 130 C.M.R. 456.409(B); 130 CMR 422.410(A).
5. "About Home and Community Based Services (HCBS) Waiver," [www.mass.gov/doc/waiver-brief-0/download](http://www.mass.gov/doc/waiver-brief-0/download).
6. 130 C.M.R. 519.007(C).
7. 130 C.M.R. 519.007(C)(2).
8. 130 C.M.R. 520.003(A)(2).
9. 130 C.M.R. 422.404(A)(4).
10. 130 C.M.R. 422.403(C).
11. 130 C.M.R. 422.412.

