

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2176213
Decision Date:	9/23/2021	Hearing Date:	09/21/2021
Hearing Officer:	Paul C. Moore		

Appellant Representative:



MassHealth Representative:

Elizabeth Landry, Taunton MassHealth
Enrollment Center (by telephone)



*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:	Patient-Paid Amount
Decision Date:	9/23/2021	Hearing Date:	09/21/2021
MassHealth Rep.:	Elizabeth Landry	Appellant Rep.:	██████████
Hearing Location:	Board of Hearings (remote)		

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 July 16, 2021, MassHealth informed the appellant that her monthly Patient-Paid Amount (PPA) owed to her nursing facility would increase to \$1,250.20 as of June 1, 2021 (Exhibit 1). The appellant requested a fair hearing on this notice with the Board of Hearings (BOH) on August 12, 2021 (Exhibit 2; 130 CMR 610.015(B)). Calculation of a PPA is a valid basis for appeal to BOH (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that her PPA would increase to \$1,250.20 monthly effective June 1, 2021.

Issue

Did MassHealth correctly calculate the appellant's PPA?

Summary of Evidence

A MassHealth representative from the Taunton MEC testified by telephone that the appellant, who is over age 65, has been enrolled in MassHealth Standard to cover a nursing-facility stay since ██████████. The appellant's primary insurance is Medicare. On June 1, 2021, MassHealth began paying the cost of the appellant's Medicare Part B premium, and thus her monthly Social Security

benefit income increased to \$1,323.00. At that time, MassHealth recalculated the appellant's PPA owed to the nursing facility by taking her total monthly Social Security income of \$1,323.00 and subtracting a monthly personal needs allowance (PNA) of \$72.80 per month. This yielded a new monthly PPA of \$1,250.20. A notice to this effect was mailed to the appellant on July 16, 2021 (Ex. 1).

The appellant testified by telephone that she cannot afford to pay this PPA amount monthly, and cannot live on \$72.80 per month. She did not dispute the amount of her monthly Social Security benefit check. The appellant testified that she also pays the cost of premiums on two life insurance policies.¹ She hopes to move out of the nursing facility soon (Testimony).

The MassHealth representative testified that the appellant had a "0" PPA from October, 2020 through December, 2020, because the appellant was not receiving her Social Security benefits during those months. The appellant failed to update her address with the Social Security Administration (SSA), when the appellant moved out of one nursing facility and into another in October, 2020. Thus, SSA did not send the appellant any benefit checks during that time period. As of January, 2021, SSA resumed paying her monthly benefits, less the amount of the appellant's monthly Medicare Part B premium of \$148.50, yielding a net benefit payment amount of \$1,174.00. From January 1, 2021 through May 31, 2021, the appellant's monthly PPA was \$1,101.20, calculated by subtracting \$72.80 from \$1,174.00 (Testimony, Ex. 4).

The MassHealth representative stated that the appellant is not eligible for any other long-term-care general income deductions (Testimony).

Findings of Fact

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

1. The appellant, who is over 65 years of age, has been enrolled in MassHealth Standard since August, 2019 (Testimony).
2. The appellant has been a resident of various nursing homes since [REDACTED] (Testimony).
3. As of June 1, 2021, the appellant's monthly Social Security benefit amount is \$1,323.00 (Testimony, Ex. 4).
4. As of June 1, 2021, MassHealth began paying the appellant's monthly Medicare Part B premium of \$148.50 (Testimony).
5. MassHealth informed the appellant via notice dated July 16, 2021 that her new monthly

¹ The MassHealth representative stated that she had no record of the appellant owning any life insurance policies, and informed the appellant that the cash-surrender values of such policies are considered countable assets in a MassHealth eligibility determination.

PPA owed to her nursing facility would be \$1,250.20 (Ex. 1).

6. The appellant timely requested a fair hearing on this notice on August 12, 2021 (Ex. 2).
7. MassHealth calculated the appellant's monthly PPA by subtracting a PNA of \$72.80 monthly from the appellant's countable monthly income of \$1,323.00, yielding \$1,250.20 (Ex. 1).
8. The appellant is not eligible for any other long-term-care general income deductions (Testimony).

Analysis and Conclusions of Law

MassHealth regulation 130 CMR 515.001 defines PPA as "the amount that a member in a long-term-care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts."

Pursuant to 130 CMR 520.026, "Long-Term-Care General Income Deductions:"

General income deductions must be taken in the following order: a personal-needs allowance; a spousal-maintenance-needs allowance; a family-maintenance-needs allowance for qualified family members; a home-maintenance allowance; and health-care coverage and incurred medical and remedial-care expenses. These deductions are used in determining the monthly patient-paid amount.

Next, pursuant to 130 CMR 520.026(A):

Personal-needs Allowance.

- (1) The MassHealth agency deducts \$72.80 for a long-term-care resident's personal-needs allowance (PNA).
- (2) If an individual does not have income totaling the standard, the MassHealth agency will pay the individual an amount up to that standard on a monthly basis.
- (3) The PNA for SSI recipients is \$72.80.

Finally, pursuant to 130 CMR 519.010, "MassHealth Senior Buy-In (Qualified Medicare Beneficiaries/QMB):"

(A) Eligibility Requirements. (Qualified Medicare Beneficiaries/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 130% of the federal poverty level;
- (3) 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; 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 MassHealth Senior Buy-in coverage in accordance with 130 CMR 519.010(A).

...

The appellant is challenging her PPA owed to her nursing facility monthly effective June 1, 2021. The appellant's monthly Social Security income is not in dispute; as of June 1, 2021, it is \$1,323.00. This is a slight increase in her income since January, 2021, as SSA is no longer deducting the amount of the appellant's monthly Medicare Part B premium of \$148.50 from her benefits.

The evidence shows that the appellant is now qualified for MassHealth Senior Buy-In; MassHealth is paying her Medicare Part B premium as of June 1, 2021.

Regarding the calculation of the PPA, there is no evidence that the appellant is eligible for any of the other long-term-care general income deductions listed at 130 CMR 520.026, such as a spousal-maintenance-needs allowance, a family-maintenance-needs allowance for qualified family members, a home-maintenance allowance, and allowances for health-care coverage and incurred medical and remedial-care expenses. She is eligible only for a deduction for her personal needs of \$72.80 per month, as set forth at 130 CMR 520.026(A), above.

There was no error in MassHealth's decision establishing a PPA of \$1,250.20 per month, as of June 1, 2021.

This 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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Justine Ferreira, Appeals Coordinator, Taunton MEC