

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2176307
Decision Date:	10/22/2021	Hearing Date:	09/29/2021
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:




Appearances for MassHealth:
Lindsey Carney, Tewksbury MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Patient-Paid Amount
Decision Date:	10/22/2021	Hearing Date:	09/29/2021
MassHealth's Rep.:	Lindsey Carney, Tewksbury MEC	Appellant's Reps.:	
Hearing Location:	Board of Hearings (Remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

By a notice dated August 4, 2021, MassHealth approved the appellant for long-term care benefits beginning on January 1, 2021, with a patient-paid amount of \$3,594.06 (Exhibit 1). The appellant filed a timely appeal on August 18, 2021, challenging the patient-paid amount (130 CMR 610.015; Exhibit 2). Calculation of a PPA is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for long-term care benefits as of January 1, 2021, with a monthly patient-paid amount of \$3,594.06.

Issue

The issue presented on appeal is whether MassHealth correctly calculated the patient-paid amount.

Summary of Evidence

A representative from the Tewksbury MassHealth Enrollment Center appeared at the hearing telephonically and testified as follows: The appellant, who is a nursing facility resident, submitted a MassHealth long-term care eligibility renewal form on July 19, 2021. On August 4, 2021, MassHealth determined that he remains eligible for benefits, with a monthly patient-paid amount of \$3,594.06. MassHealth determined this figure by adding together the appellant's gross Social Security income (\$2,125) and his gross pension (\$1,541.86), and deducting his personal needs allowance (\$72.80). The MassHealth representative indicated that the appellant is not eligible for any other deductions from his monthly income in the PPA calculation.

The appellant and his daughter appeared at the hearing telephonically. The daughter testified that the only income that the appellant has is from his Social Security and his pension, and that taxes are deducted from his pension payment before he receives it each month. She argued that these funds are deducted to pay the IRS, and that he is not left with enough money to pay the nursing facility. The appellant stated that he either needs relief on his taxes or on the PPA, and that he just does not have the funds to pay both.

Findings of Fact

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

1. The appellant is a nursing facility resident and was previously deemed eligible for MassHealth long-term care benefits.
2. On July 19, 2021, the appellant submitted a MassHealth long-term care eligibility renewal form.
3. On August 4, 2021, MassHealth determined that he remains eligible for benefits, with a monthly patient-paid amount of \$3,594.06.
4. The appellant has gross Social Security income of \$2,125, and gross pension income of \$1,541.86.
5. The appellant is entitled to a personal needs allowance of \$72.80. He is not eligible for any other deductions from his PPA.

Analysis and Conclusions of Law

The issue in this appeal is whether MassHealth correctly calculated the appellant's patient-paid amount. PPA deductions are listed at 130 CMR 520.026, which states that "[g]eneral 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.” MassHealth allowed the standard \$78.20 deduction for a personal needs allowance – a figure that is set by regulation – but did not allow for any of the other deductions listed above. This was correct, as there is no evidence that the appellant qualified for any additional deductions set forth in the regulation.

In addition, MassHealth used the gross amount of the appellant’s Social Security and pension income to calculate the PPA. This was also correct. Under 130 CMR 520.009(A)(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. 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. The applicant or member must verify *gross* unearned income. See 130 CMR 520.009(D). MassHealth was therefore correct in using the gross pension figure in the PPA calculation.¹

As there was no error in MassHealth’s determination, 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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Tewksbury MEC

¹ The appellant may wish to consider asking the pension company to stop withholding taxes from the monthly pension payment.