

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2176644

Decision Date: 11/24/2021

Hearing Date: 10/08/2021

Hearing Officer: Radha Tilva

Appearance for Appellant:

Pro se



Appearance for MassHealth:

Tina Jarbeau, Chelsea MEC Rep.



*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:	Eligibility – PACE – over income
Decision Date:	11/24/2021	Hearing Date:	10/08/2021
MassHealth's Rep.:	Tina Jarbeau	Appellant's Rep.:	
Hearing Location:	Chelsea MassHealth Enrollment Center	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 August 23, 2021, MassHealth determined that appellant is eligible for MassHealth Standard coverage effective August 1, 2021 with a \$2,571 a month premium paid directly to appellant's PACE provider (Exhibit 1). This premium was adjusted on September 24, 2021 when another notice issued and a premium of \$2,719.00 was assessed effective August 1, 2021 (Exhibit 5). The appellant filed this appeal in a timely manner on August 30, 2021 (see 130 CMR 610.015(B) and Exhibit 2). Change in coverage is valid grounds for appeal (130 CMR 610.032).

It should be noted that any delays due to issuing of this decision are due to serious illness in the hearing officer's family (130 CMR 610.015(D)).

Action Taken by MassHealth

MassHealth calculated appellant's PACE contribution and determined she was eligible for MassHealth Standard coverage with a monthly premium of \$2,719.00 a month effective August 1, 2021.

Issue

The appeal issue is whether MassHealth was correct in determining appellant's monthly premium for the PACE program.

Summary of Evidence

MassHealth testified the appellant is over the age of 65 years old and single who applied for MassHealth's PACE (Program for the All-Inclusive Care for the Elderly) on August 18, 2021. The MassHealth representative explained that in order to qualify for PACE the monthly premium cannot be over 300% of the federal benefit register which is equal to \$2,382.00 a month. As the appellant's gross income is over that amount she must meet a monthly deductible to get PACE coverage (MassHealth testimony). The appellant's gross monthly income is as follows: Social Security income is \$847.50, private pension is \$828.00, Medicare reimbursement is \$89.16, and Veteran's Pension is \$1,645.83 totaling \$3,410.49. The MassHealth representative explained at hearing that the original notice of August 23, 2021 was incorrect and a new notice issued on September 24, 2021. Since the appellant is disabled she receives a \$20.00 disregard from her income reducing the total countable income to \$3,390.00. To determine the deductible (payment) for PACE the Income Standard for a household size of one (\$522.00) along with a Medicare premium of \$148.50 is subtracted from the appellant's total countable income amount to arrive at the monthly net deductible amount of \$2,719.50. The MassHealth representative stated that appellant has not yet enrolled in PACE, but is on a protection. In addition, the representative stated that if a person is in an active deductible coverage period they have status and get a MassHealth card.

The appellant appeared by telephone along with a PACE representative who explained that the premium is too high for appellant to afford her expenses. The representative explained that with a premium of \$2,700.00 a month the appellant would only have a total of \$700.00 a month to pay for her expenses. The appellant did not dispute the calculation of her income.

Findings of Fact

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

1. The appellant is over the age of 65 years and disabled.
2. Appellant has a total gross monthly income of \$3,410.49.
3. 300% of the Federal Benefit Rate (FBR) for a single individual is \$2,382.00.
4. The appellant received a \$20.00 disregard from her Social Security to bring her income to \$3,390.00.
5. MassHealth determine the appellant's eligibility for the PACE program by subtracting the income standard for a household size of one (\$522.00) from the appellant's total countable

income amount (\$3,390 - \$522.00 - \$148.50) along with her Medicare premium (\$148.50) to arrive at the monthly net deductible amount of \$2,719.50 (Exhibit 1).

Analysis and Conclusions of Law

PACE 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 (130 CMR 519.007(C)). To qualify for the PACE program without a monthly deductible payment the appellant's income would have to be under \$2,382.00 a month. PACE eligibility the regulations do not allow any deductions for other expenses.

130 CMR 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.

(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 his or her 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. (*Emphasis added*).

The appellant is over 65 years old and a member of a family unit of one with income of \$3,410.49. The FBR for a single individual is \$2,382.00. Individuals whose income exceeds the standard 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 (See 130 CMR 519.007(C)(3)). The regulations require that when an individual's income is over 300% of the FBR the Income Standard for the appropriate household size is subtracted from the appellant's total countable income amount to arrive at the monthly net deductible amount.

MassHealth correctly determine the appellant's eligibility for the PACE program by subtracting the \$20.00 disregard from her gross income (\$3,410.49- \$20.00) reducing the total countable income amount to \$3,390.00. That reduced countable income was then subtracted from the income standard for the appellant's household size of one (\$522.00) and Medicare premium (\$148.50) to arrive at the monthly net deductible amount of \$2,719.50. This is the amount the appellant must pay monthly to her PACE provider to be eligible for the PACE program.

MassHealth correctly determined the appellant's PACE program eligibility and the deductible was properly calculated. As a result, this appeal therefore must be 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.

Radha Tilva
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nancy Hazlett, Chelsea MassHealth Enrollment Center, 45-47 Spruce Street, Chelsea, MA 02150

