

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2177903
Decision Date:	11/24/2021	Hearing Date:	11/16/2021
Hearing Officer:	Patricia Mullen		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Cassandra Moura, Taunton 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

Appeal Decision:	Denied	Issue:	Patient paid amount
Decision Date:	11/24/2021	Hearing Date:	11/16/2021
MassHealth's Rep.:	Cassandra Moura, Taunton MEC	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center		

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 4, 2021, MassHealth approved the appellant's application for MassHealth Standard for long term care residents with the requested start date of April 29, 2021 and a patient paid amount (PPA) of \$799.61 beginning April 1, 2021. (see 130 CMR 520.026 and Exhibit 1). The appellant filed this appeal in a timely manner on October 18, 2021¹ disputing the PPA. (see 130 CMR 610.015(B) and Exhibit 2). Dispute of a PPA is valid grounds for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

MassHealth calculated a PPA of \$799.61 per month for the appellant to pay to the nursing facility beginning April 1, 2021.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining that the appellant's PPA to the nursing facility is \$799.61 a month beginning April 1, 2021.

Summary of Evidence

The appellant appeared telephonically. MassHealth was represented telephonically by a representative from the MassHealth Enrollment Center (MEC) in Taunton.

The MassHealth representative stated that the appellant was admitted to the nursing facility on [REDACTED] and submitted an application for long term care benefits to MassHealth on June 4, 2021 seeking an April 29, 2021 MassHealth start date. (Exhibit 5, p. 3). The application was denied by notice dated July 22, 2021 because the appellant failed to submit verifications in a timely manner. (Exhibit 5, p. 2; testimony). Verifications were submitted and by notice dated August 4, 2021, the appellant was approved with a MassHealth start date of April 29, 2021. (Exhibit 1).

The MassHealth representative stated that the appellant receives Social Security income of \$786.00 a month and a pension of \$86.41 a month for total monthly income of \$872.41. (Exhibit 1). From this income, \$72.80 is deducted for the appellant's personal needs allowance (PNA), resulting in a PPA totaling \$799.61 a month. (Exhibit 1). The MassHealth representative noted that the appellant was discharged from the nursing facility on [REDACTED]. (Exhibit 5, p. 7).

The appellant argued that he should not have a PPA for the month of April, 2021 since he only needed coverage beginning April 29, 2021. The MassHealth representative advised him to discuss with the nursing facility whether it would be more economical to pay the private pay rate at the facility for those two days. The MassHealth representative explained that MassHealth's role is to determine MassHealth eligibility for MassHealth long term care benefits and the PPA begins in the month when MassHealth long term care coverage begins.

The appellant confirmed the income as reported by MassHealth and noted that he does not pay for private health insurance. The appellant stated that he is seeking MassHealth's assistance with paying the PPA. The appellant stated that he was not aware that he would have to start paying a PPA after 6 months in the nursing facility. The appellant stated that he stayed longer at the nursing facility because the gym was closed during Covid, prolonging his physical therapy.

Findings of Fact

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

1. The appellant was admitted to the nursing facility on [REDACTED] and submitted an application for long term care benefits to MassHealth on June 4, 2021 seeking an April 29, 2021 MassHealth start date.
2. The application was denied by notice dated July 22, 2021 because the appellant failed to submit verifications in a timely manner; verifications were submitted and by notice dated August 4, 2021, the appellant was approved with a MassHealth start date of April 29, 2021.
3. The appellant receives Social Security income of \$786.00 a month and a pension of \$86.41 a month for total monthly income of \$872.41.
4. The appellant was discharged from the nursing facility on [REDACTED].

Analysis and Conclusions of Law

Long-Term-Care Income Standard The MassHealth income standard for long-term-care residents is \$72.80 per month. (130 CMR 520.025).

For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount. (130 CMR 520.009(A)(3)).

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.

(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.

(130 CMR 520.026(A)).

Deductions for Maintenance of a Former Home.

- 1) The MassHealth agency allows a deduction for maintenance of a home when a competent medical authority certifies in writing that a single individual, with no eligible dependents in the home, is likely to return home within six months after

the month of admission. This income deduction terminates at the end of the sixth month after the month of admission regardless of the prognosis to return home at that time.

- 2) The amount deducted is the 100 percent federal-poverty-level income standard for one person.

(130 CMR 520.026(D)).

The appellant's countable monthly income totals \$872.41. MassHealth included the appellant's PNA of \$72.80 when calculating his PPA. The appellant does not have a community spouse, thus there is no spousal maintenance needs allowance; he has no minor children, thus there is no family maintenance needs allowance; a home maintenance needs allowance is allowed only for the first 6 months after admission to a nursing facility and the appellant was admitted to the nursing facility in October, 2020; the appellant has no private health insurance premiums. MassHealth correctly calculated the appellant's monthly PPA to be \$799.61 (\$872.41 - \$72.80). The PPA begins in the month in which MassHealth coverage for long term care benefits begins, which, in this case, is April, 2021. MassHealth's action is upheld 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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center