

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2179783
Decision Date:	3/22/2022	Hearing Date:	01/28/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Jessica Barney (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:	Long Term Care (LTC) Patient Paid Amount (PPA)
Decision Date:	3/22/2022	Hearing Date:	01/28/2022
MassHealth's Rep.:	Jessica Barney	Appellant's Rep.:	<i>Pro se</i>
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 November 2, 2021, MassHealth approved the appellant's application for MassHealth LTC benefits with a monthly PPA of \$1,524.20. (See 130 CMR 520.009; 520.026 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on December 29, 2021. (See 130 CMR 610.015(B); Eligibility Operations Memo 20-09; and Ex. 2). A dispute concerning MassHealth's calculation of the PPA is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's application for LTC benefits with a monthly PPA of \$1,524.20.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.009 and 526.026, in calculating the PPA

Summary of Evidence

The appellant is an individual over the age of 65 who was admitted to the nursing facility in the early part of 2021. (Ex. 3). The appellant is a recipient of MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB). (Ex. 3). On September 14, 2021, MassHealth received a packet from

the facility requesting that the appellant be converted from short-term care to LTC. The facility sought a coverage start date of September 1, 2021. MassHealth sent the appellant a request for information on October 5, 2021. MassHealth approved the application on November 2, 2021. In the notice sent to the appellant on that date, MassHealth explained that the appellant would have to pay the facility a monthly PPA of \$1524.20. MassHealth calculated the PPA by subtracting the Personal Needs Allowance (PNA) of \$72.80 from the appellant's Social Security income of \$1,597.00. The MassHealth representative testified that no other deductions were reported. The MassHealth representative stated that the appellant left the facility on December 29, 2021. The MassHealth representative stated that the appellant still was responsible for paying the facility \$1,524.20 per month for September through December.

The appellant confirmed that she left on December 29 and the facility is still seeking payment for her stay. The appellant stated that she supports her disabled son in her home. (Ex. 2). The appellant stated that without her financial support he would not be able to continue living there. (Id.). The appellant stated that she left the facility because she could not pay the PPA and continue supporting her son. The appellant stated that her son is 32-years old. The appellant stated that he receives disability income from Social Security. The appellant has not claimed her son as a dependent on her taxes. The appellant stated that she does not file taxes since she only receives Social Security retirement income. The appellant testified that she does not have a spouse. The appellant stated that although a dentist came to the facility prior to her leaving and informed her that she needed to have some of her teeth removed, she has not incurred the cost of this as a medical expense. The appellant asserted that she pays for Medicare. The appellant stated that she is still very sick and has many physical ailments,

Findings of Fact

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

1. The appellant is an individual over the age of 65. (Ex. 3).
2. The appellant is a recipient of MassHealth Buy-In for SLMB. (Ex. 3).
3. The appellant was admitted to the nursing facility in the early part of 2021. (Testimony of the MassHealth representative).
4. On September 14, 2021, MassHealth received a packet from the facility requesting that the appellant be converted from short-term care to LTC with a coverage start date of September 1, 2021. (Testimony of the MassHealth representative).
5. In a notice dated November 2, 2021, MassHealth approved the appellant's application for LTC benefits on November 2, 2021 with a PPA of \$1,524.20 beginning September 1, 2021. (Ex. 1).
6. MassHealth calculated the PPA by subtracting the PNA of \$72.80 from the appellant's Social Security income of \$1,597.00. (Ex. 1; Testimony of the MassHealth representative).

7. The appellant did not report any other deductible expenses. (Testimony of the MassHealth representative).
8. The appellant left the facility on December 29, 2021. (Testimony of the MassHealth representative; Testimony of the appellant).
9. The appellant still was responsible for paying the facility \$1,524.20 per month for September through December 2021. (Testimony of the MassHealth representative).
10. The appellant does not have a spouse. (Testimony of the appellant).
11. The appellant supports her 32-year-old disabled son, who lives in her home. (Testimony of the appellant).
12. The appellant left the facility because she could not pay the PPA and continue supporting her son. (Testimony of the appellant).
13. The appellant's son receives disability income from Social Security. (Testimony of the appellant).
14. The appellant does not claim her son on her taxes because she does not file taxes. (Testimony of the appellant).
15. The appellant does not have health insurance premiums that are owed directly to an insurer or managed care organization. (Testimony of the appellant).
16. The appellant has not incurred medical expenses that are not covered by her health insurance. (Testimony of the appellant).

Analysis and Conclusions of Law

An individual's gross earned, and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. (130 CMR 520.009(A)(1)). 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)(4)).

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.

(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.

(B) Spousal-maintenance-needs-deduction. If the community spouse's gross income is less than the amount he or she needs to live in the community (minimum-monthly-maintenance-needs allowance, MMMNA) as determined by the MassHealth agency, the MassHealth agency may deduct an amount from the institutionalized spouse's countable-income amount to meet this need...

(C) Deductions for Family-maintenance Needs.

(1) The MassHealth agency allows a deduction from the income of a long-term-care resident to provide for the maintenance needs of the following family members if they live with the community spouse:

(a) a minor child - a child younger than 21 years old of either member of the couple;

(b) a dependent child - a child 21 years of age and older who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code;

(c) a dependent parent - a parent of either spouse who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code; and

(d) a dependent sibling - a brother or sister of either spouse (including a half-brother or half-sister) who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code...

(D) 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...

(E) Deductions for Health-care Coverage and Other Incurred Expenses.

(1) Health-insurance Premiums or Membership Costs. The MassHealth agency allows a deduction for current health-insurance premiums or membership costs when payments are made directly to an insurer or a managed-care organization.

(2) Incurred Expenses.

(a) After the applicant is approved for MassHealth, the MassHealth agency will allow deductions for the applicant's necessary medical and remedial-care expenses. These expenses must not be payable by a third party. These expenses must be for medical or remedial-care services recognized under state law but not covered by MassHealth.

(b) These expenses must be within reasonable limits as established by the MassHealth agency. The MassHealth agency considers expenses to be within reasonable limits provided they are

1. not covered by the MassHealth per diem rate paid to the long-term-care facility; and
2. certified by a treating physician or other medical provider as being medically necessary.

(3) Guardianship Fees and Related Expenses...

The record shows by a preponderance of the evidence that only one deduction, for the PNA, was applicable to the appellant's income in order to determine the PPA. The spousal maintenance needs deduction does not apply because the appellant does not have a spouse. The family maintenance needs deduction does not apply because appellant does not have a minor child, a dependent parent or a dependent sibling. The appellant's does have a disabled child over the age of 21, but she does not claim him as a dependent for income tax purposes because she does not file income taxes. The deduction for maintenance of the former home does not apply because the appellant was in the nursing facility for more than six months. The appellant does not pay health insurance premiums or membership cost directly to an insurer or a managed-care organization.¹ The appellant also has not incurred medical expenses as described in 130 CMR 520.026(E)(2). The record does not show that the appellant has a guardian. MassHealth correctly determined the amount of the appellant's PPA.

For the above stated reasons, the appeal is DENIED.

Order for MassHealth

None.

¹ The appellant asserted that she pays a Medicare premium, but as a recipient of MassHealth Buy-In with SLMB, MassHealth is (or should be) paying this amount.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780