

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: DENIED

Appeal Number: 2201540

Decision Date: 6/1/2022

Hearing Date: 04/01/2022

Hearing Officer: Kenneth Brodzinski

Appearance for Appellant:



Appearance for MassHealth:

Kathleen Towle – Springfield 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:	PPA
Decision Date:	6/1/2022	Hearing Date:	04/01/2022
MassHealth's Rep.:	Kathleen Towle	Appellant's Rep.:	■
Hearing Location:	Springfield MEC		

Authority

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

Jurisdiction

Through notice dated February 22, 2022, MassHealth approved Appellant's application for MassHealth Long term Care benefits and determined a PPA commencing February 1, 2022 of \$3,082.17 (Exhibit A). Appellant filed for an appeal in a timely manner on March 2, 2022 to appeal the PPA (Exhibit A). Determining a PPA constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined Appellant's PPA.

Issue

The appeal issue is whether MassHealth has correctly calculated Appellant's PPA as of February 1, 2022.

Summary of Evidence

Both parties appeared by telephone.

The MassHealth representative reviewed the calculation of the Community Spouse's (CS) Minimum Monthly Maintenance Needs Allowance (MMMNA) (\$2,671.83); the CS's Spousal Maintenance Needs Allowance (SMNA) (1,013.60) and Appellant's Patient Paid Amount (PPA) (\$2,956.59) as set forth in writing (Exhibit B, pages 1-3) supported with financial verifications (Id., at pages 4-7).

Appellant was represented by the CS who questioned why certain gross amounts were used in the calculation instead of net. The CS also questioned why the calculations employed some standard figures instead of actual expenses. Appellant then listed several of her actual monthly living expenses. At one point the CS indicated that her monthly expenses totaled \$1,032.82. In response, the hearing officer noted that this amount is much less than the amount calculated by MassHealth (the MMMNA of \$2,671.83 – the amount MassHealth determined that the CS needs to maintain herself in the community each month). Therefore, the CS should have more than enough money each month to cover her expenses since her own income plus the SMNA of \$1,013.60 (the amount of her husband's income that the CS is allowed to retain) equals the MMMNA of \$2,671.83.

The CS explained that because gross figures were being used, she was not actually receiving the full \$1,013.60 of Appellant's income. After considerable discussion, it remained unclear why this was so, although the CS did reveal that taxes were being deducted from Appellant's pension. The hearing officer advised the CS that she should consult with the business office at the nursing home to ask how she can stop the tax deductions which is a common practice for persons in long term care facilities.

The Hearing Officer also reviewed the "exceptional circumstances" regulation with the CS, but she denied that any such circumstances currently apply.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant receives MassHealth Long term Care benefits as he resides in a long-term care facility.
2. Appellant's wife (the CS) resides in the community.
3. MassHealth made the following written calculations: the Community Spouse's (CS) Minimum Monthly Maintenance Needs Allowance (MMMNA) (\$2,671.83); the CS's Spousal Maintenance Needs Allowance (SMNA) (1,013.60) and Appellant's Patient Paid Amount (PPA) (\$2,956.59) (Exhibit B, pages 1-3).

4. The figures used in the calculations were supported with financial verifications (Id., at pages 4-7).
5. The CS's actual monthly expenses totaled \$1,032.82.
6. Taxes are currently being deducted from Appellant's income.
7. The CS denies that any "exceptional circumstances" as defined by regulation currently apply.

Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

The CS has not met her burden. The CS offered no evidence that MassHealth had miscalculated the MMMNA, the SMNA or Appellant's PPA. The CS is correct that certain elements of the calculations use standardized as well as gross amounts, but these are set by regulation and are uniformly applied to all members (See, 130 CMR 520.017 and 520.026). The only exception to the standard calculation is the "exceptional circumstances" provision set forth at 130 CMR 520.017(D). During the hearing, these circumstances were reviewed with the CS who acknowledged, that currently, none apply.

On this record, there is no basis in fact or law to disturb the subject MassHealth determination. Accordingly, 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

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