

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2201715

**Decision Date:** 7/6/2022

**Hearing Date:** 06/01/2022

**Hearing Officer:** Radha Tilva

**Record Open to:** 06/01/2022

**Appearance for Appellant:**

[Redacted], POA, wife

**Appearance for MassHealth:**

Paula Viveiros, Taunton 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	LTC – PPA - MMMNA
<b>Decision Date:</b>	7/6/2022	<b>Hearing Date:</b>	06/01/2022
<b>MassHealth's Rep.:</b>	Paula Viveiros	<b>Appellant's Rep.:</b>	Wife, POA
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<b>Aid Pending:</b>	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 January 12, 2022, MassHealth changed appellant's patient-paid amount from \$1,644.81 to \$1,861.92 effective January 1, 2022 (Exhibit 1). The appellant filed this appeal in a timely manner on March 7, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Challenging a modification to a patient paid amount is valid grounds for appeal (see 130 CMR 610.032).

On March 15, 2022 MassHealth issued a dismissal for failure to provide proof of authority (Exhibit 4). On April 11, 2022 appellant submitted the Power of Attorney paperwork and a hearing notice issued on April 25, 2022 scheduling the hearing for May 18, 2022 (Exhibits 5 and 6). Appellant requested a reschedule on April 28, 2022 which was subsequently granted without condition (Exhibit 7). A new hearing notice issued May 6, 2022 scheduling a hearing on June 1, 2022 (Exhibit 8).

## Action Taken by MassHealth

MassHealth modified appellant's patient-paid amount from \$1,644.81 to \$1,861.92 effective January 1, 2022.

## Issue

The appeal issue is whether MassHealth was correct in modifying appellant's patient-paid amount.

## Summary of Evidence

MassHealth was represented telephonically by a case worker who testified to the following. MassHealth made a long-term care redetermination on November 10, 2021 and calculated a new patient-paid amount (PPA) of \$1,861.91. The MassHealth representative stated that upon review of the case however she determined a new PPA of \$1,718.26 based off a spousal maintenance needs allowance (SMNA) of \$1,104.40. The representative issued a new notice and explained that though the letter stated the PPA would start April 1, 2022 the actual PPA adjustment was effective January 1, 2022 (Exhibit 9). The MassHealth representative testified that the PPA was calculated by taking a mortgage of \$841.36, taxes of \$204.04, condo fee of \$218.00 and the standard utility allowance of \$688.00 to come up with shelter allowance of \$1,951.40 plus the standard maintenance needs allowance of \$2,177.50 to total \$4,128.90 which is the monthly maintenance needs allowance of the appellant. As this number is greater than the standard allowed by MassHealth, however, MassHealth uses \$3,435.00 (minimum monthly maintenance needs allowance – MMMNA) unless a hearing officer finds grounds to increase the MMMNA. The MMMNA is subtracted by the community spouse's income, \$2,330.60, which equals \$1,104.40 (SMNA). The SMNA is then subtracted from the institutionalized spouse's income (\$2,657.00 + \$238.44 = \$2,895.44) and a PNA of \$72.80 to total \$1,718.26.

The appellant was represented by the community spouse who appeared by telephone. The community spouse testified that appellant co-signed a student loan for their only child and agreed to pay half of it. The daughter already paid her portion of the student loan payment, however, appellant is paying \$183.94 per month for the loan. The community spouse is seeking a deduction of that amount from the patient-paid amount.

## Findings of Fact

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

1. MassHealth made a long-term care redetermination on November 10, 2021 and calculated a new patient-paid amount (PPA) of \$1,861.91.
2. At hearing the MassHealth representative stated that based on appellant's submissions and her calculations she calculated a PPA of \$1,718.26 effective January 1, 2022.
3. MassHealth calculated an SMNA of \$1,104.40.
4. The community spouse's income is \$2,330.60 and the institutionalized spouse's income is \$2,895.44.
5. Appellant co-signed his daughter's student loan for which he agreed pay half of; the total

monthly payment for the loan which appellant contributes is \$183.94.

6. The community spouse is seeking an adjustment to the PPA based off the loan payment of \$183.94.

## Analysis and Conclusions of Law

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining the appellant's patient paid amount. A patient paid amount is an amount that a member in a long-term care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts (See 130 CMR 515.001). 130 CMR 520.009 provides that 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. According to 130 CMR 520.026, the 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.

The appellant is seeking an adjustment of the PPA based on his co-signing his daughter's student loan. MassHealth has already provided for a personal needs allowance deduction under 130 CMR 520.026(A), which is a standard amount of \$72.80 per month. MassHealth has provided a spousal maintenance needs allowance, as discussed at hearing, in the amount of \$1,104.40. There is no dispute as to the calculation of the SMNA based on the information provided by appellant and MassHealth is correct to use the standard MMMNA of \$3,435.00 in calculating the SMNA as there are no exceptional circumstances to warrant an increase to the MMMNA under 130 CMR 520.017(D)(1). Exceptional circumstances are limited to those necessities that arise from the medical condition, frailty, or similar special needs of the community spouse which is not disputed here (*Id.*).

Next, MassHealth is correct that the loan does not fall under a family maintenance needs allowance which allows a deduction from the income of a long-term-care resident to provide for the maintenance needs of the certain family members if they live with the community spouse (130 CMR 520.026(C)). As there is no evidence to demonstrate that appellant's daughter falls under any of the categories listed in parts (a) through (d), no family maintenance needs allowance is warranted.<sup>1</sup> The loan payment, similarly, does

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<sup>1</sup> (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 (130 CMR 520.026(C)(1)).

not fall under a home maintenance allowance which allows for a deduction for appellant's, with no eligible dependents living at home, who might return to the home within 6 months (130 CMR 520.026(D)). Lastly, the loan payment also does not fall under 130 CMR 520.026(E) which allows for a deduction for health-care and other incurred expenses. The regulations are clear that these other incurred expenses are limited to medical and remedial care expenses (*Id.*). Based on the foregoing analysis, MassHealth is correct that there is no deduction to appellant's income for his daughter's loans. Therefore, 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.

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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

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

Appellant Representative: [REDACTED]