

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2202470
Decision Date:	6/15/2022	Hearing Date:	05/13/2022
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

, Daughter & POA

Appearance for MassHealth:

Via telephone:

Kelly Souza, 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:	LTC – PPA
Decision Date:	6/15/2022	Hearing Date:	05/13/2022
MassHealth’s Rep.:	Kelly Souza	Appellant’s Rep.:	Daughter/POA
Hearing Location:	Taunton 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 March 22, 2022, MassHealth notified the appellant that his patient paid amount (PPA) would increase from \$3,316.20 to \$4,449.20 beginning April 1, 2022 due to a change in circumstances (Exhibit 1). The appellant filed this appeal in a timely manner on March 29, 2022 (see 130 CMR 610.015(B) and Exhibit 2). A determination regarding scope of assistance is a valid basis for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth changed the appellant’s PPA from \$3,316.20 to \$4,449.20 beginning April 1, 2022.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining the change in the appellant’s PPA.

Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: MassHealth issued a notice on March 22, 2022 informing the appellant that his PPA would change from \$3,316.20 to \$4,449.20 beginning April 1, 2022 due to a change in circumstances. She stated that the home maintenance deduction had been exhausted, resulting in the change in PPA. The MassHealth representative explained that pursuant to the MassHealth regulations, the deduction for maintenance of a former home terminates at the end of the sixth month after the month of admission, regardless of the prognosis to return home at that time. The appellant received the home maintenance deduction for six months, from October 2021 through March 2022.

The appellant was represented at hearing via telephone by his daughter who explained that the appellant is a disabled, elderly veteran who required skilled nursing care while he awaited left shoulder replacement surgery. His surgery and treatment was delayed multiple times due to COVID-19 restrictions, which caused a seven-month delay. This delay from September 28, 2021 to April 8, 2022 extended his stay at the nursing facility far beyond what it would otherwise have been. He intends to return home once the surgery and rehabilitation is completed, but he will be unable to financially maintain his home if the PPA is increased. The appellant is looking to keep his PPA at \$3,316.20 for another four to seven months until he is able to return home.

The MassHealth representative understood the appellant's concerns and had met with her supervisor prior to hearing. Unfortunately, there were no COVID-19 flexibilities applicable for this situation and no extension of the home maintenance deduction available.

Findings of Fact

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

1. The appellant is over the age of 65 and a resident of a nursing facility (Testimony and Exhibits 4 and 5).
2. On March 22, 2022, MassHealth informed the appellant that his PPA would change from \$3,316.20 to \$4,449.20 beginning April 1, 2022 due to a change in circumstances (Testimony and Exhibit 1).
3. The change in circumstances was that the home maintenance deduction had been exhausted after six months (Testimony and Exhibits 1 and 5).
4. The appellant received the home maintenance deduction for six months, from October 2021 through March 2022 (Testimony and Exhibit 5).
5. The appellant has been in the nursing facility longer than anticipated due to multiple delays related to COVID-19 (Testimony and Exhibit 6).

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.026, the following applies for 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...

(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.

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

While the appellant's representative's testimony was credible, there are no applicable flexibilities or exceptions due to COVID-19. The appellant received the home maintenance deduction for six months and there are no other applicable income deductions. For these reasons, the MassHealth determination was correct 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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]