

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2202733
<b>Decision Date:</b>	7/14/2022	<b>Hearing Date:</b>	06/29/2022
<b>Hearing Officer:</b>	Sara E. McGrath		

**Appearances for Appellant:**  
[Redacted] Appellant

**Appearances for MassHealth:**  
Elizabeth Landry, Taunton MEC



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Patient-Paid Amount
<b>Decision Date:</b>	7/14/2022	<b>Hearing Date:</b>	06/29/2022
<b>MassHealth Rep.:</b>	Elizabeth Landry	<b>Appellant Rep:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### Authority

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

### Jurisdiction

Through notice dated March 24, 2022, MassHealth notified the appellant that she is eligible for MassHealth Standard benefits with eligibility beginning on March 14, 2022, with a monthly patient-paid amount of \$495.20 (Exhibit 1).<sup>1</sup> The appellant filed a timely appeal on April 11, 2022 (130 CMR 610.015; Exhibit 2). The hearing was initially scheduled for May 19, 2022 (Exhibit 5, p. 3). On May 31, 2022, the Board of Hearings dismissed the appeal because the appellant failed to appear at the hearing (Exhibit 4; 130 CMR 610.035(A)(11)). On June 8, 2022, the appellant requested that the Board vacate the dismissal (Exhibit 5, pp. 1-2). The Board's Director ordered a hearing scheduled to allow the appellant the opportunity to contest the dismissal (Exhibit 5, p. 4; 130 CMR 610.036). At hearing, the appellant explained that on the date of hearing, her phone was fully charged and she was using her hearing aids. Despite this, she did not hear the phone ring and thus missed her opportunity to participate in the hearing. On these facts, I find sufficient evidence exists to vacate the dismissal. The calculation of a patient-paid amount is a valid basis for appeal (130 CMR 610.032).

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<sup>1</sup> The notice states that the patient-paid amount will start in April (Exhibit 1). MassHealth clarified that the patient-paid amount started in March, and that COVID protections have created various notice errors.

## **Action Taken by MassHealth**

MassHealth notified the appellant that she is eligible for MassHealth Standard benefits with eligibility beginning on March 14, 2022 with a monthly patient-paid amount of \$495.20.

## **Issue**

The appeal issue is whether MassHealth correctly determined the appellant's patient-paid amount.

## **Summary of Evidence**

The MassHealth representative appeared at hearing by telephone and testified as follows: On February 22, 2022, the appellant submitted a MassHealth long-term care application, seeking coverage effective [REDACTED], which is the date of her admission to the nursing facility. The required screening form were timely submitted and indicate that the appellant is clinically eligible for long-term care services and that her length of stay is more than six months (Exhibits 6 and 7). On March 24, 2022, MassHealth notified the appellant that she is eligible for MassHealth Standard benefits with eligibility beginning on March 14, 2022 with a monthly patient-paid amount of \$495.20 (Exhibit 1). MassHealth calculated the appellant's patient-paid amount as follows: \$1,701 (the appellant's countable income) - \$72.80 (personal needs allowance) - \$1,133 (home maintenance needs allowance) = \$495.20. The MassHealth representative explained that because the appellant has been found to be clinically eligible for a long-term stay (as opposed to a short-term stay), she is not entitled to the six-month home maintenance needs allowance. Therefore, as of April 1, 2022, the appellant's patient-paid amount increased to \$1,628.20.<sup>2</sup>

The appellant appeared at hearing by telephone and explained that she had been in the same nursing facility previously. When she went home, she was told that she needed to give the facility a three-day notice that she would be returning. After 28 days, she returned to the facility. She explained that no one told her that there would be a penalty if she returned to the facility in less than 30 days. She does not feel she should be charged a penalty of \$495.20 because she returned to the facility two days early. The MassHealth representative responded and stated that the \$495.20 is not a penalty for returning to the facility in less than 30 days. Rather it is her patient-paid amount that is calculated by regulation.

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<sup>2</sup> The MassHealth representative did not point to any regulation to support the allowance of this deduction for the month of March. She noted that it is MassHealth's practice to allow this deduction for the month of admission to allow for final rent payments and the like.

## **Findings of Fact**

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

1. On February 22, 2022, the appellant submitted a MassHealth long-term care application, seeking coverage effective March 14, 2022.
2. On [REDACTED], the appellant was admitted to a skilled nursing facility.
3. The nursing facility submitted an SC-1 Form which indicates that the appellant's length of stay is more than six months, and a screening form which indicates that the appellant is clinically eligible for long-term care services.
4. On March 24, 2022, MassHealth notified the appellant that she is eligible for MassHealth Standard benefits with eligibility beginning on March 14, 2022 and a monthly patient-paid amount of \$495.20.
5. The appellant's patient-paid amount was calculated as follows: \$1,701 (the appellant's countable income) - \$72.80 (personal needs allowance) - \$1,133 (home maintenance needs allowance) = \$495.20.
6. The appellant timely appealed the approval/patient-paid amount notice.

## **Analysis and Conclusions of Law**

The issue in this case is whether MassHealth properly calculated the appellant's patient-paid amount for March 2022. MassHealth calculated a patient-paid amount of \$495.20 for this month. The appellant argues that this charge is a "penalty" because she returned to the facility after having been gone from the nursing facility for less than 30 days. The appellant's argument appears to have no regulatory basis. Under 130 CMR 519.006(A)(3), long-term care residents must "contribute to the cost of care" in accordance with the patient-paid amount regulation at 130 CMR 520.026. Per 120 CMR 520.026, 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.

The appellant has not demonstrated she is entitled to any of the income deductions listed above other than the personal-needs allowance of \$72.80. The deduction for the maintenance of a former home is only allowed "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" (130 CMR 520.026(D)). There is no evidence in the

record to suggest that the appellant was likely to return home within six months after the month of admission. Nevertheless, MassHealth allowed this deduction for March, the month of admission. There is no evidence that any of the other deductions apply, and no other regulatory provision to support an argument that the March patient-paid amount should be eliminated.

On this record, 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.

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Sara E. McGrath  
Hearing Officer  
Board of Hearings

cc: Taunton MEC