

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2202849
Decision Date:	6/14/2022	Hearing Date:	May 27, 2022
Hearing Officer:	Brook Padgett		

Appellant Representative:

Pro se

MassHealth Representative:

Sherri Paiva, Taunton MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Dismissed	Issue:	130 CMR 610.032
Decision Date:	6/14/2022	Hearing Date:	May 27, 2022
MassHealth Rep.:	S. Paiva	Appellant Rep.:	Pro se
Hearing Location:	Taunton		

Authority

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

Jurisdiction

The appellant received a notice dated March 20, 2022, stating: “The \$1 or \$3.65 that you pay for a drug at the pharmacy, called a co-pay, **is not changing**. In fact, MassHealth has set a **new limit, called a copay cap**. ...Based on your MassHealth eligibility, your monthly copay cap is \$40.00, beginning April 01, 2022. This is the highest amount you would have to pay each month for **all of your drugs**.” (Exhibit 1).

The appellant appealed the notice timely on April 14, 2022. (130 CMR 610.015(B); Exhibit 2).

The establishment of a copayment cap is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined the appellant’s monthly out-of-pocket co-pays to the pharmacy for drugs covered by MassHealth cannot exceed \$40.00 a month.

Issue

Did MassHealth correctly determine the appellant’s out-of-pocket co-pay cap?

Summary of Evidence

MassHealth testified the appellant's co-pays are capped at \$40.00 a month regardless of how many drugs she gets at the pharmacy.¹

The appellant testified that she takes 7 drugs a month and she feels she should not have to pay any co-pays. The appellant indicated that on May 20, 2022 she received a letter from MassHealth stating that she is exempt from all copays beginning May 21, 2022. The appellant faxed the letter prior to the close of the fair hearing. (Exhibit 4).

MassHealth acknowledged the appellant is exempt from pharmacy co-pays beginning May 21, 2022. (Testimony).

The appellant provided evidence that on May 20, 2022 MassHealth determined she was exempt from pharmacy co-pays. This notice reverses the March 20, 2022 notice establishing the appellant's \$40.00 co-payment cap. With this May 20, 2022 notice the issue of the of the \$40.00 cap has been rendered moot and the appeal is dismissed accordingly. (130 CMR 610.032).²

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth representative: Taunton MEC

¹ 130 CMR 506.014: Copayments Required by MassHealth The MassHealth agency requires its members to make the copayments described in 130 CMR 506.016, up to the maximum described in 130 CMR 506.018, except as excluded in 130 CMR 506.015. If the usual-and-customary fee for the service or product is less than the copayment amount, the member must pay the amount of the service or product, providing that this amount shall be no greater than the MassHealth payment minus one cent.

² Grounds for Appeal (A) Applicants and members have a right to request a fair hearing for any of the following reasons: (3) any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance;