

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied in part;  
Approved in part

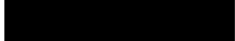
**Appeal Number:** 2202872

**Decision Date:** 6/16/2022

**Hearing Date:** 06/15/2022

**Hearing Officer:** Patricia Mullen

**Appearance for Appellant:**

 POA

**Appearance for MassHealth:**

Jernice Diaz, 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

<b>Appeal Decision:</b>	Denied in part; Approved in part	<b>Issue:</b>	Patient Paid Amount
<b>Decision Date:</b>	6/16/2022	<b>Hearing Date:</b>	06/15/2022
<b>MassHealth's Rep.:</b>	Jernice Diaz, Taunton MEC	<b>Appellant's Rep.:</b>	POA
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center		

## 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 31, 2022, MassHealth increased the appellant's patient paid amount (PPA) to the nursing facility by removing the home maintenance allowance. (see 130 CMR 520.026 and Exhibit 1). The appellant filed this appeal in a timely manner on April 14, 2022. (see 130 CMR 610.015(B) and Exhibit 2). Dispute of a PPA is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth increased the appellant's PPA to the nursing facility.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in calculating the appellant's PPA to the nursing facility.

## Summary of Evidence

The appellant was represented telephonically by his Power of Attorney. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The MassHealth representative stated that the appellant is a household of one and was admitted to the nursing facility on [REDACTED]. The MassHealth representative stated that the appellant was approved for MassHealth Standard for nursing facility residents, with a start date of November 13, 2021. The MassHealth representative stated that the appellant receives a gross monthly pension of \$3,267.00, net Social Security of \$186.00 a month, and monthly veterans' income of \$441.35 for a total monthly income of \$3,894.35. The MassHealth representative stated that the PPA is calculated by deducting certain regulatory allowances from the income. The MassHealth representative stated that MassHealth deducted \$72.80 for the appellant's monthly personal needs allowance (PNA), and \$267.48 for the appellant's monthly health insurance premiums, resulting in a monthly PPA of \$3,554.07, retroactively effective February 1, 2022. (Exhibit 1).

The MassHealth representative noted that the appellant was allowed a home maintenance allowance deduction for the months of November through March. The MassHealth representative stated that the home maintenance allowance is 100% of the federal poverty level for a one person household and such amount was \$1,074.00 from November, 2021 through February, 2022, and \$1,133.00 beginning March, 2022. The MassHealth representative stated that the home maintenance allowance was deducted from the appellant's PPA for the months of November, 2021 through March, 2022. The MassHealth representative stated that the appellant's nursing facility submitted a new clinical screening and updated SC-1 on March 29, 2022 showing that the appellant was deemed long term care as of February 15, 2022. The MassHealth representative noted that the home maintenance allowance ends once a member is deemed long term care eligible, and further, per regulation, a home maintenance deduction ends the sixth month after admission regardless of level of care status. The MassHealth representative stated that the appellant transferred his home into a trust in June, 2016 and retained a life estate interest in the property.

The appellant's POA, who is also his granddaughter, stated that she and her spouse and children live in the home and there are automatic deductions from the appellant's bank account for fixed oil contract payments. The appellant's POA noted that the appellant lived in the home with her and her family and she provided care to him for a number of years. The appellant's POA also questioned the pension income amount, noting that the direct deposit amount is \$2,800.00. The appellant's POA stated that there is not enough money in the appellant's bank account to cover his outstanding PPA debt to the nursing facility.

The MassHealth representative stated that health insurance premiums are deducted from the appellant's pension, but MassHealth allows health insurance premium deductions from the PPA so it all evens out. The MassHealth representative stated that if taxes are taken out of the pension, the appellant should get those back in his tax return. The MassHealth representative stated that MassHealth counts gross income in calculating a member's PPA. Subsequent to the hearing, the MassHealth representative submitted a copy of the appellant's gross pension statement showing gross monthly income of \$3,267.00 and a deduction of \$267.48 for health insurance premiums. (Exhibit 10).

## Findings of Fact

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

1. The appellant is a household of one and was admitted to the nursing facility on [REDACTED].
2. The appellant was approved for MassHealth Standard for nursing facility residents, with a start date of November 13, 2021.
3. The appellant receives a gross monthly pension of \$3,267.00, net Social Security of \$186.00 a month, and monthly veterans' income of \$441.35 for a total monthly income of \$3,894.35.
4. By notice dated March 31, 2022, MassHealth calculated a monthly PPA of \$3,554.07 retroactive to February 1, 2022.
5. Prior to the March 31, 2022 notice, the appellant was allowed a home maintenance allowance deduction for the months of November, 2021, through March, 2022.
6. 100% of the federal poverty level for a one person household was \$1,074.00 from November, 2021 through February, 2022, and \$1,133.00 beginning March, 2022.
7. The appellant transferred his home into a trust in June, 2016 and retained a life estate interest in the property.
8. The appellant's granddaughter and her family live in the home.

## Analysis and Conclusions of Law

### 520.026: 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. See 130 CMR 520.026.

The MassHealth agency deducts \$72.80 for a long-term-care resident's personal-needs allowance (PNA). (130 CMR 520.026(A)(1)).

### 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 percent federal-poverty-level income standard for one person. See 130 CMR 520.026(D).

The appellant's total monthly income is \$3,894.35. In calculating the PPA, MassHealth deducted \$72.80 per month for the appellant's PNA, pursuant to regulation. There is no spouse or dependent family members living with the spouse, and thus those deductions are inapplicable. MassHealth deducted \$267.48 a month for the appellant's health insurance premium payments from his gross pension. MassHealth correctly calculated a monthly PPA of \$3,554.07.

The appellant received the home maintenance allowance from November, 2021 through March, 2022. The appellant was admitted to the nursing facility in October, 2021. This deduction terminates, at the latest, at the end of the sixth month after the month of admission, which, in this case, would be April, 2022. MassHealth accepted the short term screen as certification from a competent medical authority that the appellant was likely to return home within six months after the month of admission. Once the appellant was clinically screened as long term care level of care in February, 2022, he was no longer eligible for the home maintenance deduction because the clinical screening was evidence that he was not likely to return home within six months after the month of admission. MassHealth did not receive the updated screening and SC-1 until March 29, 2022.

MassHealth was required to give prior notice to the appellant before changing the PPA and thus I determine that the PPA set forth in the notice dated March 31, 2022 shall begin April 1, 2022. The appeal is approved insofar as the appellant's PPA of \$3,554.07 is effective April 1, 2022, but is denied in that MassHealth correctly calculated the PPA.

## **Order for MassHealth**

Modify the notice dated March 31, 2022 to reflect a start date of April 1, 2022 for the appellant's PPA of \$3,554.07.

## **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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center