

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Approved


Appeal Number: 2203765

Decision Date: 6/28/2022

Hearing Date: 06/22/2022

Hearing Officer: Patricia Mullen

Appearance for Appellant:

 authorized rep.


Appearance for MassHealth:

Eileen Smith, Charlestown 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:	Approved	Issue:	Patient Paid Amount (PPA)
Decision Date:	6/28/2022	Hearing Date:	06/22/2022
MassHealth's Rep.:	Eileen Smith, Charlestown MEC	Appellant's Rep.:	 authorized rep.
Hearing Location:	Charlestown 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 May 3, 2022, MassHealth changed the appellant's patient paid amount (PPA) to the nursing facility to \$1,420.20 beginning May 1, 2022. (see 130 CMR 520.026 and Exhibit 1). The appellant filed this appeal in a timely manner on May 18, 2022 disputing the PPA. (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 calculated a PPA of \$1,420.20 per month for the appellant to pay to the nursing facility beginning May 1, 2022.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining that the appellant's PPA to the nursing facility is \$1,420.20 a month beginning May 1, 2022.

Summary of Evidence

The appellant was represented telephonically at the hearing by his authorized representative. MassHealth was represented telephonically by a representative from the MassHealth Enrollment Center (MEC) in Charlestown.

The MassHealth representative stated that the appellant was admitted to the nursing facility on [REDACTED] and submitted an application for long term care benefits to MassHealth on February 10, 2022 seeking an April 29, 2022 start date. By notice dated May 2, 2022, the appellant was approved with a MassHealth start date of April 29, 2022 and a patient paid amount (PPA) of \$287.20. (Testimony, exhibit 1, p. 3). The MassHealth representative stated that the appellant's PPA increased to \$1,420.20 beginning May 1, 2022 because MassHealth no longer allowed the home maintenance deduction of \$1,133.00 as of that date.

The MassHealth representative stated that the appellant receives net Social Security income of \$1,493.00 a month from which \$72.80 is deducted for the appellant's personal needs allowance (PNA), resulting in a PPA totaling \$1,420.20 a month. (Exhibit 1). The MassHealth representative stated that for the month of April, 2022, a home maintenance deduction of \$1,133.00 was allowed, resulting in a PPA of \$287.20 for that month. The MassHealth representative stated that the appellant lived in a home owned by his daughter and thus is not entitled to the home maintenance allowance because he has no home related expenses. The MassHealth representative stated that the appellant received the home maintenance allowance for the first month of admission because everyone is allowed the deduction for the month of admission. The MassHealth representative submitted an SC-1 showing the appellant's anticipated length of stay in the nursing facility is short term (six months or less), and a clinical screening showing the appellant is screened as clinically eligible for nursing facility services on a short term basis through July 22, 2022. (Exhibit 7, p. 4). The MassHealth representative stated that the appellant meets the criteria of the home maintenance allowance from the PPA insofar as a medical authority has certified that he is likely to return home within six months, however the deduction was not allowed because the appellant did not own or rent his previous home and has no home related expenses.

The appellant's representative stated that the appellant should be allowed a home maintenance deduction since he is short term care. The appellant's representative stated that the appellant has no assets and would like to use the deduction for other expenses including setting up a funeral contract.

Findings of Fact

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

1. The appellant was admitted to the nursing facility on [REDACTED] and submitted an application for long term care benefits to MassHealth on February 10, 2022 seeking an April 29, 2022 start date.
2. By notice dated May 2, 2022, the appellant was approved with a MassHealth start date of April 29, 2022 and a PPA of \$287.20.

3. The appellant's PPA increased to \$1,420.20 beginning May 1, 2022 because MassHealth no longer allowed the home maintenance deduction of \$1,133.00 as of that date.
4. The appellant receives net Social Security income of \$1,493.00 a month.
5. The appellant's SC-1 states the appellant's anticipated length of stay in the nursing facility is short term (six months or less), and the appellant's clinical screening states the appellant is screened as clinically eligible for nursing facility services on a short term basis through July 22, 2022.
6. The appellant lived in his daughter's home prior to his admission to the nursing facility.

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 \$1,493.00. In calculating the PPA, MassHealth deducts \$72.80 per month for the appellant's PNA, pursuant to regulation. There is no spouse or dependent family members and thus those deductions are inapplicable. The appellant received the home maintenance allowance for the month of admission, April, 2022. A competent medical authority has certified in writing that the appellant is likely to return home within six months after the month of admission. No updated SC-1 or screening stating otherwise was submitted.

While I understand MassHealth's "common sense" argument that a home maintenance deduction should not be allowed since the appellant has no home related expenses, the regulation does not require that such expenses be shown. The regulation only requires that the appellant is likely to return home within six months after the month of admission, and as of now, the evidence supports that. Furthermore, the regulation does not require that the appellant own his former home. The former home is the place that the appellant previously lived and the regulations allow for a home maintenance deduction from the PPA when the criteria of 130 CMR 520.026(D) is met. The appellant has met the criteria under 130 CMR 520.026(D) and thus the home maintenance deduction should be continued. Accordingly, the appellant's PPA of \$287.20 should be reinstated effective May 1, 2022. The home maintenance deduction terminates at the end of the sixth month after the month of admission, which, in this case, would be October, 2022. If the appellant changes to a long term care status before October, 2022, MassHealth can re-calculate the appellant's PPA at that time. MassHealth's determination is modified and the appeal is approved.

Order for MassHealth

Modify the notice dated May 3, 2022 and allow the home maintenance deduction of \$1,133.00.
Re-calculate the appellant's PPA to \$287.20 beginning May 1, 2022.

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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Jennifer Vitt, Charlestown MassHealth Enrollment Center
Appellant Rep.; [REDACTED]

[REDACTED]

[REDACTED]