

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2204131

**Decision Date:** 8/10/2022

**Hearing Date:** 07/14/2022

**Hearing Officer:** Thomas Doyle

**Record Open to:**

**Appearance for Appellant:**  
[Redacted], Case Manager

**Appearance for MassHealth:**  
Kim McAvinchey

**Interpreter:**



*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	<b>Issue:</b>	Patient Paid Amount
<b>Decision Date:</b>	8/10/2022	<b>Hearing Date:</b>	07/14/2022
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 May 25, 2022, MassHealth changed the appellant's patient paid amount (PPA) to the nursing facility to \$5,463.62 beginning November 1, 2021. (130 CMR 520.026; Ex. 13 and 14; Testimony). The appellant filed this appeal in a timely manner on June 14, 2022, disputing the PPA. (Ex. 3). Dispute of a PPA is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth calculated a PPA of \$5,463.62 per month for the appellant to pay to the nursing facility beginning November 1, 2021.

## 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 \$5,463.62 a month beginning November 1, 2021.

## Summary of Evidence

The MassHealth representative that appeared at hearing by telephone testified that appellant, a single male with no children, applied for MassHealth long-term care benefits on December 13, 2021. He was admitted to the nursing facility on [REDACTED] and was seeking an eligibility start date of September 28, 2021. MassHealth issued an approval notice with an effective eligibility

start date of November 1, 2021, and PPA of \$7,224.73 per month. (Ex. 1). Post hearing, the hearing officer noticed a discrepancy between the PPA amount on the approval notice, \$7,224.73 (Ex. 1) and the MassHealth representative's testimony to the amount of the PPA, \$5,463.62. (Testimony; Ex. 6 and 14). Pursuant to 130 CMR 610.081, the hearing officer reopened the record to inquire of the MassHealth representative what was the correct PPA and how was appellant's social security monthly income calculated because there was a discrepancy between testimony and the documentary evidence regarding that matter. (Ex. 12). Appellant representative was given two days to respond to any new evidence submitted by MassHealth. (Id.). MassHealth responded, in writing, with an explanation of the correct PPA being \$5,463.62 and how the appellant's monthly social security was calculated. (Ex. 13 and 14). In reference to these two specific inquiries, appellant representative did not offer a response.

The PPA was calculated by taking appellant's net Social Security income of \$1,607.00, plus rental income of \$5,260.42, for a total of \$6,867.42, less the allowable deductions of \$72.80 for personal needs allowance, \$257.00 for health insurance and a \$1,074.00 short-term allowance. The total PPA therefore was \$5,463.62 effective November 1, 2021. (Ex. 6). The MassHealth representative explained that the short-term allowance is only allowed for 6 months or until the facility submits proof that the applicant is no longer short-term.

The appellant was represented by a regional manager for Senior Planning Services. The appellant representative did not dispute the amount of the PPA as calculated by MassHealth. She requested the record be left open to hire an attorney to initiate a procedure to sell appellant's property. The request to keep the record open was denied because appellant representative testified that appellant had previously hired an attorney, approximately three to four months before the hearing, and no action was taken regarding selling appellant's property.

## Findings of Fact

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

1. Appellant is single and has no children. (Testimony; Ex. 9, p. 27).
2. Appellant applied for MassHealth benefits on December 13, 2021 and entered a long-term care nursing facility on [REDACTED]. (Testimony; Ex. 6).
3. MassHealth issued an approval notice with an effective eligibility start date of November 1, 2021 and PPA of \$7,224.73 per month. (Ex. 1). This notice used incorrect rental income. (Ex. 13).
4. Post hearing, during a two day record open period, MassHealth, through documentary evidence, affirmed testimony from the hearing that the correct PPA amount was \$5,463.62. (Ex. 13 and 14). Appellant representative did not respond to MassHealth's updated evidence.
5. Appellant's net Social Security monthly income for 2021 was \$1,607.00 per month. (Ex. 6 and 13). Appellant has a monthly rental income of \$5,260.42. (Ex. 6 and 10).

6. Appellant pays \$257.00 a month for health care insurance which was deducted from countable income. (Ex. 6).
7. In determining the PPA, MassHealth deducted \$72.80 for the personal needs allowance and \$1,074.00 for the home-maintenance needs allowance. (Testimony; Ex. 6 and 14, pp. 2-3).

## **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 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 \$6,867.42. 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 from October 2021 to the end of March 2022. This deduction terminates at the end of the sixth month after the month of admission, which, in this case, was March 2022. The plain language of the regulation allows for a home maintenance allowance for the period ending on the last day of the sixth month after the admission date, with no exceptions made for a hardship argument, or to allow for the sale of the property, or any other reason. The hearing officer cannot rule on the legality of the MassHealth regulations. (130 CMR 610.082(C)(2)). MassHealth deducted \$257.00 a month for the appellant's private health insurance premiums. The appellant's PPA was correctly calculated under the regulations to be \$5,463.62 beginning November 1, 2021.

MassHealth's action is upheld 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.

---

Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center,  
367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

[REDACTED]