

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2204234
Decision Date:	7/19/2022	Hearing Date:	07/08/2022
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:

 (father)

Appearance for MassHealth:

Elizabeth Landry



*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:	Denied	Issue:	Patient Paid Amount
Decision Date:	7/19/2022	Hearing Date:	07/08/2022
MassHealth's Rep.:	Elizabeth Landry	Appellant's Rep.:	Father
Hearing Location:	All Parties Appeared by Telephone	Aid Pending:	No

Authority

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

Jurisdiction

On March 24, 2022, MassHealth issued a notice stating that as of April 1, 2022, the appellant will have a patient paid amount of \$976.20 each month. (130 CMR 520.000; Exhibit 1). The appellant appealed this decision on June 3, 2022. (130 CMR 610.015; Exhibit 2). The Board of Hearings accepted the appeal as timely as MassHealth implemented new protocols to support public health efforts for both new MassHealth members and existing members that include providing individuals up to 120 days, instead of the standard 30 days, to request a fair hearing. (130 CMR 610.015; Eligibility Op. Memo 20-09; Exhibit 2).

An agency determination regarding the scope and amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that beginning April 1, 2022, the appellant will owe the nursing facility \$976.20 each month.

Issue

Whether MassHealth was correct in calculating the patient paid amount.

Summary of Evidence

All parties appeared by telephone. Documents presented by MassHealth were incorporated into the hearing record as Exhibit 4.

The appellant was eligible for MassHealth while in the community. The appellant was admitted into a long-term care facility in [REDACTED] with the intent to return to the community. After a six-month period of admission, MassHealth sent the appellant an information request to process a conversion of coverage from community-based services to long-term care services. MassHealth issued a request for information on March 2022. MassHealth received information necessary to determine eligibility and approved the appellant for long-term care coverage as of April 1, 2022 with a patient paid amount of \$976.20. MassHealth calculated this patient paid amount based on income of \$1,049 each month from the Social Security Administration with a deduction of \$72.80 for a personal needs allowance.

The MassHealth representative testified that MassHealth does consider certain deductions in calculating a patient paid amount. In general, the regulations require deductions to 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. The only deduction that the appellant qualified for at the time of the eligibility decision was the personal needs allowance. The appellant has a child in the community living with her parents. Although the appellant has a child living in the community, MassHealth did not consider the appellant eligible for a family maintenance needs allowance as the child is not living with a community spouse. The MassHealth representative testified that the regulations at 130 CMR 520.026(C) allow for a deduction from the income of a long-term care resident to provide for the maintenance needs of a minor child if that child lives with the community spouse

During the initial 6-month period of admission, the appellant was allowed a deduction for the maintenance of the former home as it appeared that the appellant was likely to return home within 6 months after the month of admission. At the end of that 6-month period, MassHealth terminated this deduction as the regulations require the agency to take such action regardless of the prognosis to return home at that time. The deduction for the maintenance

of a former home is 100 percent of the federal poverty level income standard for one person. At the time of the eligibility decision on appeal, that income standard of \$1,133 each month exceeded the appellant's total monthly income. Therefore, the appellant was not required to pay the facility for the first six months of admission.

The appellant appeared with her father and a social worker from the facility. The appellant did not dispute the income amount, the date of admission or current admission status. The appellant is in the process of applying for a Moving Forward Plan (MFP) waiver to return to the community with the necessary community-based services. As noted above, the appellant's child lives with her parents and the appellant does not have a spouse in the community. The social worker noted that the appellant needs to maintain her home to return to the community. The appellant's father testified that the appellant has been on Medicare which has been paying for services rather than MassHealth. The MassHealth representative responded that MassHealth covered a portion of the appellant's stay even when she qualified for Medicare coverage. The appellant noted that it is her intent to be discharged within the next 30 days and she will not be able to return to the community if she loses her apartment due to nonpayment of rent. The appellant has not received a notice of discharge from the facility for nonpayment.

Findings of Fact

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

1. The appellant was eligible for MassHealth while in the community.
2. The appellant was admitted into a long-term care facility in [REDACTED] with the intent to return to the community.
3. After a six-month period of admission, MassHealth sent the appellant an information request to process a conversion of coverage from community-based services to long-term care services.
4. MassHealth received information necessary to determine eligibility and approved the appellant for long-term care coverage as of April 1, 2022.
5. The appellant receives \$1,049 each month from the Social Security Administration.
6. MassHealth allowed a deduction for a personal needs allowance of \$72.80.

7. MassHealth calculated a patient paid amount of \$976.20.
8. During the first six months of admission, the appellant qualified for a home-maintenance-needs allowance.
9. The appellant does not have a spouse in the community.
10. The appellant has a child in the community.
11. The child resides with the appellant's parents.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

The issue on appeal is MassHealth's calculation of the appellant's patient-paid amount (PPA). For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable income amount to determine the PPA. (130 CMR 520.009(A)(3)). Countable income is defined as an individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions. (130 CMR 520.009(A)(1)). The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. (130 CMR 520.009(A)(4)).

In this case, the appellant's countable income includes benefits received from the Social Security Administration. (130 CMR 520.009). In determining the monthly patient-paid amount, 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. (130 CMR 520.026). MassHealth correctly deducted \$72.80 for the appellant's personal-needs allowance (PNA). (130 CMR 520.026(A)).

MassHealth allows a deduction from the income of a long-term care resident to provide for the maintenance needs of certain family members if they live with the community spouse. (130 CMR 520.026(C)(1)). Such family members include a minor child. (130 CMR 520.026(C)(1)(a)). While the appellant has a minor child, the child does not reside with a community spouse. Therefore, MassHealth could not consider a deduction for the maintenance needs of that family member. The appellant did not present evidence to demonstrate that she would qualify for any other deduction. Therefore, the decision made by MassHealth was correct.

This appeal is denied.

As noted at the hearing, MassHealth calculated an amount for the appellant to be responsible for in payment to the facility. It is between the appellant and the facility as to how and when these funds are paid. This patient paid amount began in April 2022.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

Appellant Representative: [REDACTED]