


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied in Part	Appeal Number:	2204815
Decision Date:	10/11/2022	Hearing Date:	08/25/2022
Hearing Officer:	Rebecca Brochstein	Record Open Date:	10/06/2022

Appearances for Appellant:

, Appellant's Mother


Appearances for MassHealth:

Andrea Pelczar, Tewksbury MEC



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

APPEAL DECISION

Appeal Decision:	Denied in Part	Issue:	Patient-Paid Amount
Decision Date:	10/11/2022	Hearing Date:	08/25/2022
MassHealth's Rep.:	Andrea Pelczar, Tewksbury MEC	Appellant's Reps.:	
Hearing Location:	Board of Hearings (Remote)		

Authority

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

Jurisdiction

By a notice dated June 16, 2022, MassHealth approved the appellant for long-term care benefits beginning on June 8, 2022, with a patient-paid amount of \$2,135.20 (Exhibit 1). The appellant filed a timely appeal on June 21, 2022, challenging the patient-paid amount (130 CMR 610.015; Exhibit 2). Calculation of a PPA is a valid basis for appeal (130 CMR 610.032). While a decision was pending in the case, the hearing officer reopened the record to accept additional information from the appellant's mother (Exhibit 4).

Action Taken by MassHealth

MassHealth approved the appellant for long-term care benefits as of June 8, 2022, with a monthly patient-paid amount of \$2,135.20.

Issue

The issue on appeal is whether MassHealth correctly calculated the patient-paid amount.

Summary of Evidence

A representative from the Tewksbury MassHealth Enrollment Center appeared at the hearing telephonically and testified as follows: The appellant is a minor child who lives in a long-term care facility. A MassHealth long-term care application was filed on her behalf on June 10, 2022, seeking coverage as of June 8, 2022. On June 16, 2022, MassHealth approved the application as of the requested date, and set a patient-paid amount (PPA) of \$2,135.20. The MassHealth representative testified that while MassHealth does not consider parental income as countable in a PPA calculation, the child's own income is countable. In this case, the appellant has Social Security income of \$2,208 per month. From this figure, MassHealth deducted a personal needs allowance of \$72.80, and arrived at the PPA at \$2,135.20. The MassHealth representative stated that no other PPA deduction is indicated in this case.

The appellant was represented by her mother, who appeared telephonically with an attorney. The mother testified that the appellant's Social Security income is from survivors benefits, which she receives due to the death of her father. She argued that she has used this money to help pay the rent on the family's residence, as the appellant still has a bedroom and all of her belongings at home. The mother explained that the family moved from out of state and that she had expected the appellant to be able to live at home with nursing support, but that she instead had to place her daughter in a nursing facility because she was unable to get the nursing hours she needs.¹ She noted that the appellant's father was a surgeon and that he had "paid for everything," while she is a nurse with a more modest income; she added that the appellant's Social Security benefits replace the child support payments that she received from the father before his death. The mother testified that she could cover some of the rent with her own earnings, but that she needs the appellant's income to pay the rest. She argued that MassHealth should reconsider the PPA calculation on the basis of financial hardship.

The appellant's mother submitted into evidence a copy of her lease agreement, showing total rent of \$3,730 per month. The lease lists the mother as the "resident" and her two children as "occupants." She also provided a picture of the appellant's bedroom in the home. See Exhibit 2.

The MassHealth representative testified that the PPA could possibly be adjusted to account for health insurance premiums for the appellant's primary insurance. She stated that if the mother wished to submit documentation about the family's health insurance premiums she would determine if the appellant is entitled to an additional deduction.

After the hearing, while a decision was pending on the case, the appellant's mother submitted additional information. The hearing officer reopened the record to accept her correspondence into

¹ The mother filed a separate appeal to dispute MassHealth's authorization of private duty nursing hours. A hearing on that appeal was held on the same date as this hearing, and the record was held open after hearing for additional evidence.

evidence. The mother wrote that she had left her job as of August 26, due to changes in management and requirements of her employer. As a result, she is no longer eligible for her employer-sponsored health insurance. She also submitted verification of her COBRA coverage. After reviewing the mother's post-hearing submission, the MassHealth representative reported that she would revise the patient-paid amount to account for health insurance premiums in the amount of \$996.70, setting the updated PPA at \$1,138.50 as of September 2022.² See Exhibits 4 and 5.

Findings of Fact

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

1. The appellant is a minor child who lives in a long-term care facility.
2. On June 10, 2022, a MassHealth long-term care was filed on her behalf, seeking coverage as of June 8, 2022.
3. On June 16, 2022, MassHealth approved the application as of the requested date, and set a patient-paid amount of \$2,135.20.
4. The appellant has Social Security income of \$2,208 per month. MassHealth deducted a personal needs allowance of \$72.80 to arrive at the PPA of \$2,135.20.
5. The appellant's mother and sibling live in an apartment, where the appellant also has a dedicated bedroom. The total rent on the apartment is \$3,730 per month.
6. The appellant left her employment as of August 26, 2022, and now pays for COBRA coverage for herself and her children.
7. Based on the COBRA documentation provided by the appellant's mother, MassHealth allowed a health insurance premium deduction of \$996.70 from the PPA starting in September 2022. The revised PPA is \$1,138.50.

Analysis and Conclusions of Law

The issue in this appeal is whether MassHealth correctly calculated the appellant's patient-paid amount. MassHealth calculated the PPA of \$2,135.20 by taking the appellant's Social Security income of \$2,208 per month, and deducting a personal needs allowance of \$72.80. The agency initially determined that no other deductions apply under MassHealth regulations, but later

² The MassHealth representative further explained that she arrived at this figure by adding together one-half of the premium amounts (as the coverage was for both children) for medical (\$938.57), dental (\$49.37), and vision (\$8.76) coverage. See Exhibit 5.

allowed a health insurance deduction of \$996.70 based on documentation provided after hearing. The appellant's mother contends that the PPA should be lower because she relies on the appellant's income to pay the rent on the family's apartment, arguing that the appellant's Social Security benefits are effectively a replacement for the child support payments she received from the appellant's father prior to his death.

As a preliminary matter, the regulations support MassHealth's determination that the appellant's income is countable under MassHealth rules. Pursuant to 130 CMR 520.009(D), unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. The regulations do not distinguish among types of Social Security income, and there is no indication that survivors benefits are to be treated any differently from other forms of such income. Social Security survivors benefits are also not among the types of income identified as noncountable at 130 CMR 520.015. Accordingly, MassHealth properly counted the appellant's Social Security income in calculating her patient-patient amount.³

Further, MassHealth correctly determined the appellant's eligibility for deductions in calculating the PPA. Under 130 CMR 520.026, "[g]eneral 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." MassHealth allowed the standard \$72.80 deduction for a personal needs allowance – a figure that is set by regulation – and also allowed (based on information provided after hearing) an additional deduction of \$996.70 for health insurance premiums. The agency correctly determined that the appellant is not eligible for any of the other deductions listed above.

As MassHealth's PPA calculation, as modified after hearing, was correct, this appeal is denied.

Order for MassHealth

None.

³ MassHealth properly excluded the mother's own income from the PPA calculation. See 130 CMR 520.002 (when a child under age 18 lives in a medical institution, the income and assets of the parents are considered available only through the end of the calendar month of separation).

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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Tewksbury MEC

