

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2205320

Decision Date: 8/18/2022

Hearing Date: 08/16/2022

Hearing Officer: Patricia Mullen

Appearance for Appellant:

[Redacted] Power of Attorney (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

Appeal Decision:	Denied	Issue:	Patient Paid Amount (PPA)
Decision Date:	8/18/2022	Hearing Date:	08/16/2022
MassHealth's Rep.:	Jernice Diaz, Taunton MEC	Appellant's Rep.:	POA
Hearing Location:	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 June 21, 2022, MassHealth calculated a monthly Patient Paid Amount (PPA) of \$4,943.71 for the appellant to pay to the nursing facility beginning July 1, 2022. (see 130 CMR 520.206 and Exhibit 1). The appellant filed this appeal in a timely manner on July 18, 2022. (see 130 CMR 610.015(B) and Exhibit 2). Dispute of a PPA calculation is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth calculated a PPA of \$4,943.71 beginning July 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 \$4,943.71.

Summary of Evidence

The appellant was represented telephonically at the hearing by his POA. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Taunton. The MassHealth representative stated that the appellant is a single individual and has been open on MassHealth Standard for long term care residents since May, 2020. The appellant submitted the annual review form to MassHealth on May 4, 2022 and a request for information was sent to the appellant on May 31, 2022. (Testimony). The appellant submitted the requested information and MassHealth issued an approval notice with PPA calculation on June 21, 2022. (Exhibit 1, testimony). The MassHealth representative stated that the appellant has a gross monthly pension totaling \$5,034.25, net monthly Social Security income of \$25.00, and a monthly pension of \$10.00 for a total monthly income of \$5,069.25. (Exhibits 5, 6). From this amount, a monthly personal needs allowance (PNA) of \$72.80 is deducted, as well as the appellant's private monthly health insurance premium of \$52.74, resulting in a PPA of \$4,943.71. (Testimony, exhibit 1). The MassHealth representative noted that the appellant receives gross Social Security of \$149.10, but the Medicare premium of \$124.10 a month is an allowable deduction so MassHealth only counts the net Social Security of \$25.00. The MassHealth representative noted that the appellant's previous PPA was \$4,871.21, but it increased due to the increase in the appellant's monthly pension. The MassHealth representative noted that the appellant has over \$500.00 deducted every month from his monthly pension for federal taxes, but MassHealth is required to count gross monthly income pursuant to regulation. The MassHealth representative advised the appellant's representative to contact the person overseeing the pension about any options regarding the federal tax deduction.

The appellant's representative noted that he does not think the appellant has filed a tax return in years. The appellant's representative noted in the request for the appeal that the appellant does not have income sufficient to meet the PPA.

Findings of Fact

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

1. The appellant is a single individual and has been open on MassHealth Standard for long term care residents since May, 2020.
2. The appellant submitted the annual review form to MassHealth on May 4, 2022 and a request for information was sent to the appellant on May 31, 2022; the appellant submitted the requested information and MassHealth issued an approval notice with PPA calculation on June 21, 2022.
3. The appellant has a gross monthly pension totaling \$5,034.25, net monthly Social Security income of \$25.00, and a monthly pension of \$10.00 for a total monthly income of \$5,069.25.
4. The appellant pays a private monthly health insurance premium of \$52.74.

Analysis and Conclusions of Law

Countable-income Amount

(A) Overview.

- (1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.
- (4) 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. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

(130 CMR 520.009(A)).

Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. 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. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: MassHealth Buy-In, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;
- (3) for rental income: a written statement from the tenant or a copy of the lease; or
- (4) other reliable evidence.

(130 CMR 520.009(D)).

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)).

The appellant is a single individual with no eligible dependents living in the home and thus is not entitled to a spousal-maintenance-needs allowance, or a family-maintenance-needs allowance for qualified family members. (130 CMR 520.026(B), (C)).

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).

(130 CMR 520.026(D)).

The appellant has been living in the nursing facility for over 2 years and thus deductions for maintenance of a former home is not applicable.

MassHealth deducted the appellant's monthly health insurance premiums and Medicare premiums, pursuant to 130 CMR 520.026(E), in calculating his PPA.

The appellant's total countable monthly income is \$5,069.25. 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 a spouse, and the appellant has lived in the nursing facility for longer than 6 months, thus the spouse, family, and home maintenance deductions are inapplicable. MassHealth deducted \$52.74 a month for the appellant's health insurance premium payments and only counted the net Social Security income thereby allowing the deduction for Medicare premiums. MassHealth correctly calculated a monthly PPA of \$4,943.71.

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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center
Appellant Rep: [REDACTED]