

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2206500
Decision Date:	12/27/2022	Hearing Date:	09/30/2022
Hearing Officer:	Alexandra Shube	Record Open to:	11/11/2022

Appearance for Appellant:



Appearance for MassHealth:

Via telephone:

Yisell Medina, Taunton MEC

Gloria Medeiros, 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:	Approved in part; Denied in part	Issue:	LTC – PPA
Decision Date:	12/27/2022	Hearing Date:	09/30/2022
MassHealth’s Rep.:	Yisell Medina Gloria Medeiros	Appellant’s Rep.:	Power of Attorney Business Office Manager
Hearing Location:	Taunton MassHealth Enrollment Center Remote	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

Through a notice dated August 23, 2022, MassHealth notified the appellant that she is eligible for MassHealth long-term care benefits with a start date of November 3, 2021 and a monthly patient paid amount (PPA) of \$2,125.20 (Exhibit 1). The appellant filed this appeal in a timely manner on August 31, 2022 (see 130 CMR 610.015(B) and Exhibit 2). A determination regarding scope of assistance is a valid basis for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for long-term care benefits with a start date of November 3, 2021 and monthly PPA of \$2,125.20.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining the appellant’s PPA.

Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: on August 23, 2022, MassHealth approved the appellant for long-term care benefits with a start date of November 3, 2011 and monthly PPA of \$2,125.20. A 33-day period of ineligibility was assessed due to a transfer of assets. The PPA was updated on September 26, 2022 to \$1,675.20 beginning on October 1, 2022. The change in PPA was due to a correction in rental income. The initial approval notice showed \$1,000.00 in monthly rental income, but that was corrected to \$500.00 in monthly rental income.

The appellant's representatives appeared at hearing via telephone and did not dispute the transfer and 33-day period of ineligibility. They testified that the reason for the appeal was to correct the PPA. The appellant's power of attorney stated that the appellant needs the additional money every month to keep the house running. He stated that he has spent \$17,000 in plumbing repairs in the past year, including two hot water heaters, faucet, and pipes.

The MassHealth representative responded that she received a rental receipt for \$550 per month, but has not received any documentation related to expenses. MassHealth would consider homeowner's insurance, tax bills, utilities paid on behalf of the tenant, and non-cosmetic repairs in the last twelve months.

The appellant testified that the tenant pays his own utilities.

The record in the appeal was held open until October 28, 2022 for the appellant to provide proof of expenses related to the rental property. The record was held open until November 11, 2022 for MassHealth to review and respond to the appellant's submission. The appellant submitted her response on October 27, 2022. On November 15, 2022, MassHealth responded that, based on the documentation received, it recalculated the monthly PPA to \$1,230.22. She was unable to accept the documentation related to the homeowner's insurance because it did not show a premium amount, other than a handwritten annotation of what was paid. There were also invoices that she was unable to include in the new calculation because they were too old and prior to the appellant's eligibility. As a result, when recalculating the PPA, she included taxes, water and sewer bills, and plumbing repairs from March 26, 2022 and February 22, 2022.

Findings of Fact

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

1. The appellant is over the age of 65 and a resident of a nursing facility (Testimony).
2. On August 23, 2022, MassHealth approved the appellant for long-term care benefits with a start date of November 3, 2011 and monthly PPA of \$2,125.20 (Testimony and Exhibit 1).

3. On September 26, 2022, MassHealth updated the PPA to \$1,675.20 (Testimony and Exhibit 4).
4. On August 31, 2022, the appellant timely appealed the August 23, 2022 notice (Exhibit 2).
5. The record was held open until October 28, 2022 for the appellant to provide proof of expenses related to a rental property (Exhibit 6).
6. On October 27, 2022, the appellant submitted documentation which included tax bills, water and sewer bill, plumbing repair receipts, and homeowner's insurance premium invoices with the amount owed handwritten (Exhibit 7).
7. On November 15, 2022, MassHealth responded that based on the documentation submitted during the record open period, it recalculated the monthly PPA to \$1,230.22 (Exhibit 8).
8. MassHealth could not consider the homeowner's insurance because it was handwritten, as well as other bills that were too older and occurred prior to the appellant's eligibility (Exhibit 8).

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.026, the following applies for 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.

Additionally, pursuant to 130 CMR 520.010(C) states the following regarding rental income:

- (1) Allowable business expenses from rental income include carrying charges, cost of fuel and utilities provided to tenants, and any maintenance and repair costs.
- (2) If the individual occupies an apartment in the same building from which he or she receives rental income, carrying charges are prorated per unit. The cost of fuel and utilities are prorated if they are paid through a single heating unit or meter.
- (3) The MassHealth agency may deduct actual maintenance and repair costs, other than cosmetic changes, from the amount of rental income if the individual verifies such expenses.

Based on the documents received during the record open period, MassHealth correctly recalculated the appellant's monthly PPA at \$1,230.22, which should be applied retroactively to November 1, 2021. For these reasons the appeal is approved as to that newly adjusted PPA. As to

any further adjustments, the appeal is denied. There is insufficient documentation to support expenses related to the homeowner's expenses, which as noted by MassHealth only had the premiums handwritten in, and other expenses predated the appellant's eligibility.

For these reasons, MassHealth correctly adjusted the PPA to \$1,230.22 during the record open period and the appeal is approved in part and denied in part.¹

Order for MassHealth

If not already done, issue a new notice reflecting the adjusted PPA of \$1,230.22, effective November 1, 2021.

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.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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

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¹ This decision does not preclude the appellant from submitting sufficient proof of the homeowner's insurance to the ongoing unit to adjust the PPA going forward.