

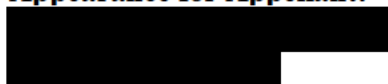
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206903
Decision Date:	11/23/2022	Hearing Date:	10/14/2022
Hearing Officer:	Christopher Jones		

Appearance for Appellant:




Appearance for MassHealth:

Kelly Worthen - Springfield Ongoing



*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:	LTC - PPA
Decision Date:	11/23/2022	Hearing Date:	10/14/2022
MassHealth's Rep.:	Kelly Worthen	Appellant's Rep.:	
Hearing Location:	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 22, 2022, MassHealth changed the amount of money the appellant must pay the nursing facility for their care from \$1,383.86 to \$2,516.86, as of September 1, 2022. (Exhibit 2; 130 CMR 520.026.) The appellant filed this appeal in a timely manner on September 15, 2022. (Exhibit 3; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth removed the appellant's home-maintenance deduction after she remained in the nursing facility for six months.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining that the appellant was only eligible for a personal-needs allowance from her income.

Summary of Evidence

The appellant is an elderly woman who entered the nursing facility on February 1, 2022. MassHealth approved her for long-term-care benefits and assessed her a patient-paid amount ("PPA") of \$1,383.86. The appellant's total monthly income is \$2,589.66, including \$1,152 per

month from Social Security and \$1,437.66 per month in other unearned income. MassHealth allowed a \$72.80 personal-needs allowance (“PNA”) and an allowance of \$1,133 for the maintenance of her community home. MassHealth’s representative testified that this allowance only exists where the appellant certifies that she plans to return to the community, and the allowance may only continue for six months from the month of admission.

MassHealth’s representative explained that this allowance timeline is not discretionary, and it is automatically removed per MassHealth regulations. The appellant testified that she needed the money in order to afford to return to her rented home in the community, and that she hoped to be discharged soon.

Findings of Fact

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

1. The appellant is an elderly woman who has been residing in a nursing facility for more than six months. (Testimony by MassHealth’s representative; Exhibit 2.)
2. The appellant’s total monthly income is \$2,589.66. For the first six months that the appellant was covered by MassHealth, she was allowed to keep \$1,133 per month in order to maintain her community home based upon the assertion that she was planning to return to the community. (Testimony by MassHealth’s representative.)
3. Starting September 1, 2022, MassHealth increased the appellant’s PPA, removing this home-maintenance allowance. The only remaining allowance was \$72.80 for her PNA. (Testimony by MassHealth’s representative; Exhibit 2.)

Analysis and Conclusions of Law

A person is generally expected to spend the entirety of their income on covering the cost of their nursing facility care. Only specifically allowed deductions may be kept from an institutionalized member’s income. See 130 CMR 520.026. Because the appellant does not have a community spouse, the spousal maintenance and family maintenance deductions are inapplicable. The remaining deductions allow a small amount for covering a person’s “personal needs,” and an amount equivalent to 100 percent of the federal poverty level to cover maintaining an individual’s former home. The change in the appellant’s PPA was the result of the expiration of her home maintenance allowance following six months of MassHealth “long term care” coverage.¹ The substantive legal dispute is whether MassHealth was correct to remove the deduction for

¹ MassHealth’s regulations sometimes refer to people residing in a nursing facility as “institutionalized,” but they are also referred to as “long term care residents.” See e.g. 130 CMR 519.006; 130 CMR 520.026. The rules governing “long term care” benefits apply to all residents of nursing facilities regardless of whether they are screened as short term or long term.

maintenance of a former home while the appellant was still clinically screened as a short term resident. The relevant regulation is:

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.

(A) Personal-Needs Allowance.

(1) The MassHealth agency deducts \$72.80 for a long-term-care resident's personal-needs allowance (PNA).

(2) If an individual does not have income totaling the standard, the MassHealth agency will pay the individual an amount up to that standard on a monthly basis.

(3) The PNA for SSI recipients is \$72.80.

...

(D) 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.

130 CMR 520.026(A), (D) (emphasis added).

The appellant entered the nursing facility in February 2022, and her home maintenance deduction expired at the end of August, the sixth month after the month of admission. MassHealth correctly applied its regulation, and this appeal must be 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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

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