

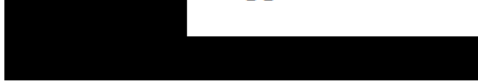
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206910
Decision Date:	11/10/2022	Hearing Date:	10/21/2022
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:



Appearance for MassHealth:

Via telephone:

Kristin McMahon, Tewksbury 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:	LTC – PPA
Decision Date:	11/10/2022	Hearing Date:	10/21/2022
MassHealth’s Rep.:	Kristin McMahon	Appellant’s Rep.:	Daughter-in-Law/HCP
Hearing Location:	Tewksbury 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 May 17, 2022, MassHealth approved the appellant for long-term care benefits with a start date of January 31, 2022 and a monthly patient paid amount (PPA) of \$1,130.30 (Exhibit 1). The appellant filed this appeal in a timely manner on September 16, 2022 (see 130 CMR 610.015(B) and Exhibit 2).¹ 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 monthly PPA of \$1,130.30.

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

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 November 15, 2021, MassHealth received a long-term care application on behalf of the appellant, who is over the age of 65 with a spouse in the community. The appellant requested a start date of January 31, 2022. After multiple requests for information, all missing verifications were ultimately received on March 14, 2022 and MassHealth agreed to honor the re-log date of January 4, 2022.

On May 17, 2022, MassHealth issued an approval notice, which is the notice under appeal, informing the appellant that he was approved for MassHealth long-term care benefits with a start date of January 31, 2022 and a monthly PPA of \$1,130.30. MassHealth testified that the PPA was calculated as follows: Social Security Income (SSI) of \$1,371.10 less the Personal Needs Allowance (PNA) of \$72.80 less an allowance for health insurance of \$168, which arrived at the monthly PPA of \$1,130.30. She explained that the appellant did not indicate that there were any spousal expenses on the Long-Term Care Supplement; therefore, MassHealth did not include the spousal allowance when calculating the PPA. When the appellant received the approval notice with the PPA and informed MassHealth that there were spousal expenses, MassHealth explained that the appellant could submit a corrected Long-Term Supplement indicating the expenses and proof of those of expenses. MassHealth did not receive an updated Long-Term Care Supplement or proof of spousal expenses.

The appellant was represented at hearing via telephone by his daughter-in-law, who is also his health care proxy. She testified that she has submitted expenses and updated rent and was told MassHealth received the documents when she called in August. At the time she submitted the application, the appellant and his spouse were not paying rent because they had a reverse mortgage. She was overwhelmed by the process and repeated that she keeps sending in documents.

The MassHealth representative responded that she did not have any submissions other than documents received in September, which included the authorized representative designation (ARD) form and SC-1 from the nursing facility. She explained that the appeal was not filed until September 16, 2022 and once the case was approved on May 17, 2022, she no longer had ownership of the case and any submissions would go to the ongoing unit. If documents were sent in and received by MassHealth and processed by the ongoing unit, she would not receive those documents as part of the intake unit. She noted that the ongoing unit would have updated the PPA going forward if it received the relevant documentation. The appeal is related to the application process and events prior to the approval. As part of this appeal process, if the appellant wanted to adjust the PPA going back to January 31, 2022, the MassHealth representative would still need an updated Long-Term Care Supplement indicating that there are spousal expenses and proof of those expenses.

It was explained that the record could be held open in the appeal to allow for the appellant's representative to submit the requested documentation. Instead, the appellant's representative repeated that she has sent in the documents. She said there were bank statements submitted that show the expenses since all the appellant's bills are on autopay. MassHealth explained again that she did not have the necessary proof of expenses and she also required the updated Long-Term Care Supplement, since the current one indicates that there are no spousal expenses.

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 with a spouse in the community (Testimony and Exhibit 5).
2. On November 15, 2021, MassHealth received a long-term care application on behalf of the appellant with a requested start date of January 31, 2022 (Testimony and Exhibit 5).
3. On May 17, 2022, MassHealth approved the appellant for long-term care benefits effective January 31, 2022, with a PPA of \$1,130.30 every month (Testimony and Exhibit 1).
4. On September 16, 2022, the appellant timely appealed the notice (Exhibit 2).
5. The appellant's monthly income totals \$1,371.10 made up of SSI (Testimony and Exhibit 5).
6. The PPA was calculated as follows: \$1,371.10 (appellant's gross SSI) - \$72.80 (PNA) - \$168 (health insurance) = \$1,130.30 (Testimony and Exhibits 1 and 5).
7. On the Long-Term Care Supplement, the appellant indicated that the community spouse had no expenses (Testimony and Exhibit 5).
8. There were no other applicable allowances.
9. MassHealth did not receive an updated Long-Term Care Supplement indicating the community spouse's expenses or any supporting proof of those expenses (Testimony and Exhibit 5).

Analysis and Conclusions of Law

Pursuant to 130 CMR 515.008(A), an "applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility..."

In determining a member's PPA, MassHealth regulations require that deductions be made from the member's income "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.” See 130 CMR 520.026. The amount for the personal-needs allowance is set at \$72.80. The family-maintenance-needs allowance is only allowed when the member has dependent children, siblings, or parents living in their former home, and the home-maintenance-needs allowance only applies to single (unmarried) individuals when the member is likely to return home within six months after admission.

As to the spousal maintenance needs allowance (SMNA), if the community spouse’s income is insufficient to meet their monthly expenses, the SMNA allows the community spouse to keep some of the institutionalized spouse’s income to pay for necessities. The SMNA “is the amount by which the minimum-monthly-maintenance-needs allowance exceeds the community spouse’s gross income.” 130 CMR 520.026(B). MassHealth determines the minimum monthly maintenance needs allowance (MMMNA) by adding a federal standard-maintenance allowance to the difference between the community spouse’s actual costs of shelter, including a standard amount for utility costs, and a standard-shelter expense. See 130 CMR 520.017(B), 520.026(B)(1). Either spouse may seek to adjust the amount of the MMMNA based on exceptional circumstances.

The appellant submitted a Long-Term Care Supplement in which he indicated that there were no spousal expenses; therefore, MassHealth correctly did not consider the spousal allowance when calculating the PPA. When the appellant received the approval notice with the PPA and informed MassHealth that there were spousal expenses, MassHealth explained that the appellant could submit a corrected Long-Term Supplement indicating the expenses and proof of those of expenses. MassHealth did not receive an updated Long-Term Care Supplement or proof of spousal expenses. Per 130 CMR 515.008(A), it is the appellant’s responsibility to cooperate with MassHealth and provide the information necessary to establish and maintain eligibility. MassHealth cannot calculate and allow for the SMNA without knowing what those expenses are (or that they even exist) and without receiving the supporting proof.

For these reasons, MassHealth correctly calculated the PPA and the appeal is denied.²

Order for MassHealth

None.

² This does not preclude the appellant from submitting an updated Long-Term Care Supplement indicating the spouse’s expenses, along with proof of those expenses, to the ongoing unit to adjust the PPA going forward.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957