

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2208525
Decision Date:	1/30/2023	Hearing Date:	12/14/2022
Hearing Officer:	Susan Burgess-Cox	Record Open to:	01/20/2023

Appearance for Appellant:



Appearance for MassHealth:

Nikita Jones



*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
Decision Date:	1/30/2023	Hearing Date:	12/14/2022
MassHealth's Rep.:	Nikita Jones	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone	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 October 5, 2022, MassHealth notified the appellant that beginning September 1, 2022 he will owe the nursing facility \$1,850.50. (130 CMR 520.026; Exhibit 1). The appellant filed an appeal in a timely manner on November 10, 2022. (130 CMR 610.015; Exhibit 2). An agency determination regarding the scope and amount of assistance is valid grounds for appeal. (130 CMR 610.032).

The record was held open to provide the appellant's representative the opportunity to provide additional evidence. The record open period was extended for MassHealth to provide copies of eligibility notices related to the start date and PPA of the community spouse. The record closed on January 20, 2023.

Action Taken by MassHealth

MassHealth notified the appellant that he will owe the nursing facility \$1,850.50 each month to help pay for his care beginning September 1, 2022.

Issue

Whether MassHealth was correct in determining that the appellant will owe the nursing facility \$1,850.50 to help pay for his care beginning September 1, 2022.

Summary of Evidence

In October 2022, MassHealth issued a notice deeming the appellant eligible for long-term care as a single individual with a Patient Paid Amount (PPA) of \$1,850.50 as of September 1, 2022. (Testimony; Exhibit 1). In calculating the PPA, MassHealth considered income of \$1,923.30 from the Social Security Administration (SSA) and a deduction of \$72.80 for a personal needs allowance. (Testimony; Exhibit 1).

In the past, the appellant was deemed eligible for long-term care with a PPA that included a deduction for a Spousal Maintenance Needs Allowance (SMNA). Upon learning of the admission of the appellant's spouse into a facility for rehabilitation services for more than 30 days, MassHealth recalculated the appellant's PPA as a single individual with no spouse residing in the community.

The appellant's representative testified that the admission of appellant's spouse was for short-term rehabilitation services with the intent of returning to her residence upon the completion of these services. The appellant's representative did not agree with the determination that the spouse was no longer considered as residing in the community at the time of the eligibility decision on appeal. The appellant's representative argued that the placement of the appellant's spouse was not in a nursing facility but a rehabilitation unit. The appellant's representative testified that the appellant's spouse will not be able to pay rent to keep her apartment in the community if she no longer receives a Spousal Maintenance Needs Allowance.

The MassHealth representative responded that the appellant's spouse was no longer considered as residing in the community because she was receiving services in a facility for more than 30 days. The MassHealth representative stated that the issue of a patient paid amount is possibly one to address at a hearing for the community spouse, not the appellant. The MassHealth representative stated that she could not speak to eligibility or the PPA for the community spouse as she was not assigned to that case. The MassHealth representative testified that the status of residing in the community terminates one month after a spouse is no longer in the community.

The record was held open to provide the appellant's representative the opportunity to provide additional evidence. (Exhibit 4). The record open period was extended for MassHealth to provide copies of eligibility notices related to the start date and PPA of the community spouse. (Exhibit 7). Documents and responses submitted by the appellant were incorporated into the hearing record as Exhibit 5 and Exhibit 9. Documents and responses submitted by MassHealth were incorporated into the hearing record as Exhibit 6 and Exhibit 8.

Records submitted by the appellant include an SC-1 of the spouse with a short-term admission that began in [REDACTED]. (Exhibit 5). The notice indicates the type of bed as one in a nursing facility rather than a chronic/rehabilitation facility. (Exhibit 5). The notice of clinical eligibility states that the appellant's spouse is clinically eligible for MassHealth payment of nursing-facility services on a short-term basis through January 31, 2023. (Exhibit 5). Progress notes from December 2022 state that the spouse was seeking discharge but her daughters were not in support of this decision and continuing to work with the facility to ensure the spouse could have a safe discharge. (Exhibit 5).

MassHealth responded to this submission stating that the agency still held that the spousal-maintenance-needs allowance terminates the first full calendar month in which the individual no longer has a spouse in the community. (130 CMR 520.026(B); Exhibit 6). The MassHealth representative stated that the appellant has been in the nursing facility since [REDACTED] and is not short-term. (Exhibit 6). As noted above, the appellant was deemed eligible for long-term care with a Spousal Maintenance Needs Allowance (SMNA) prior to this decision.

Records submitted by MassHealth include two eligibility notices for the appellant's spouse. (Exhibit 8). The first notice deemed the community spouse eligible for MassHealth as of August 1, 2022 with a patient paid amount (PPA) of \$853.40. (Exhibit 8). This PPA utilized income of \$2,059.20, deducting a personal needs allowance of \$72.80, and a home maintenance needs allowance of \$1,133. (Exhibit 8). The second notice adjusted the spouse's PPA from \$853.40 to \$0.00 effective September 1, 2022. (Exhibit 8). The notice shows a determination that the community spouse did not have countable income to utilize in calculating a PPA. (Exhibit 8). The appellant's representative responded to this submission stating they were still seeking to have the PPA removed as the community spouse was "short term and should be allowed the 6 months to pay her rent so that she has a home to go to when [discharged]." (Exhibit 9).

Findings of Fact

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

1. In October 2022, MassHealth issued a notice deeming the appellant eligible as a single individual with a PPA of \$1,850.50 as of September 1, 2022.
2. In calculating the September 2022 PPA, MassHealth considered income of \$1,923.30 from the Social Security Administration (SSA) and a deduction of \$72.80 for a personal needs allowance.
3. In the past, the appellant was eligible for long-term care coverage with a PPA that included a deduction for a Spousal Maintenance Needs Allowance (SMNA).
4. In [REDACTED], the appellant's spouse was admitted into a facility for short-term rehabilitation services.
5. During the first month of admission, MassHealth deemed the appellant's spouse eligible with a PPA of \$853.40.
6. The PPA of the appellant's spouse included income of \$2,059.20 and deductions of \$1,133 for a home maintenance needs allowance and \$72.80 for a personal needs allowance.
7. In the second month of admission, the PPA of the appellant's spouse decreased to \$0.
8. In the second month of the spouse's admission, the appellant's PPA increased to \$1,850.50.

Analysis and Conclusions of Law

Pursuant to 130 CMR 519.006(A), institutionalized individuals may establish eligibility for MassHealth Standard subject to several requirements. These requirements include contributing to the cost of care as defined at 130 CMR 520.026. (130 CMR 519.006). If only one spouse is a resident of a medical institution who is expected to remain in the facility for 30 days or more, the community spouse's income is not counted in the determination of eligibility for the institutionalized spouse. (130 CMR 520.002(B)(2)(a)). Additionally, in calculating the cost of care, the institutionalized spouse may provide for the

maintenance needs of the community spouse in accordance with 130 CMR 520.026(B). (130 CMR 520.002(B)(2)(a)). This amount is the spousal maintenance needs deduction. (130 CMR 520.026). This amount applies to the first month of eligibility in an institution and terminates the first full calendar month in which the spouse is no longer in an institution or no longer has a spouse in the community. (130 CMR 520.026(B)).

A community resident is defined as a person who lives in a noninstitutionalized setting in the community. (130 CMR 515.000). Institutionalization is placement of an individual in one or more medical institutions where placement lasts or is expected to last for a continuous period of at least 30 days. (130 CMR 515.001). A medical institution is defined as a public or private facility providing acute, chronic or long-term care unless otherwise defined within 130 CMR 515.000 through 522.000. (130 CMR 515.000). Medical institutions include acute inpatient hospitals, licensed nursing facilities, state schools, intermediate-care facilities for the mentally retarded, public or private institutions for mental diseases, freestanding hospices, and chronic-disease and rehabilitation hospitals. (130 CMR 515.000).

While the appellant's spouse met the definition of a community resident prior to the decision on appeal, as she lived in a noninstitutionalized setting in the community, once her placement in an institutionalized setting was expected to last for a continuous period of at least 30 days, she no longer met the definition of a community resident. (130 CMR 515.000). Therefore, the appellant was no longer eligible for a spousal maintenance needs allowance. (130 CMR 520.026).

Also, while not the subject of this appeal, the determinations made by MassHealth in calculating patient paid amounts for the appellant's spouse support the decision on appeal as the first appears to include income from the SMNA and deductions for a home maintenance needs allowance for the first 30 days and the second no longer includes that income in the eligibility determination. The dates of these decisions coincide with the decision on appeal regarding the calculation of the appellant's PPA. (130 CMR 515.000; 130 CMR 519.006; 130 CMR 520.026).

The decision made by MassHealth in calculating the PPA on appeal was correct.

This appeal is 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

[REDACTED]