

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300831
Decision Date:	4/5/2023	Hearing Date:	03/06/2023
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:



Appearances for MassHealth:

Mul Oeur, Taunton MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Long-Term Care / Patient-Paid Amount
Decision Date:	4/5/2023	Hearing Date:	03/06/2023
MassHealth's Rep.:	Mul Oeur, Taunton MEC	Appellant's Rep.:	Appellant's Daughter
Hearing Location:	Board of Hearings (Remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

By a notice dated January 20, 2023, MassHealth informed the appellant that her patient-paid amount (PPA) would increase from \$393.70 to \$1,526.70 as of February 1, 2023 (Exhibit 1). The appellant filed a timely appeal on February 1, 2023 (130 CMR 610.015; Exhibit 2). Calculation of a PPA is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that her PPA would increase from \$393.70 to \$1,526.70 as of February 1, 2023.

Issue

The issue presented on appeal is whether MassHealth correctly determined the appellant's patient-paid amount effective February 1, 2023.

Summary of Evidence

The MassHealth representative, appearing telephonically, testified as follows: The appellant, who is over the age of 65, is a resident of a nursing facility. She was previously approved for MassHealth nursing facility coverage on a short-term basis. Her initial patient-paid amount was \$269.70; this increased to \$393.70 as of January 1, 2023, because of a corresponding increase in her Social Security income. On January 20, 2023, MassHealth notified the appellant that her PPA would increase to \$1,526.70 as of February 1, 2023. The MassHealth representative explained that the appellant was eligible for a home maintenance needs deduction for the first six months of her stay, and that this expired as of the end of January. The current PPA was calculated by taking the appellant's total income of \$1,599.50 and subtracting the standard \$72.80 personal needs allowance.

The appellant was represented at the hearing by her daughter, who also appeared by telephone. She testified that she has been trying to set up services to be able to bring her mother home, and that she needs the additional income to cover the appellant's rent and utilities in the meantime. She stated that if she does not have the funds to pay these expenses, she will not be able to bring her home. The daughter testified that the nursing facility persuaded her to set the appellant up for long-term care in case she could not be discharged home. She added that she was not aware she would not be able to use the appellant's income to pay her community expenses during this period.

Findings of Fact

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

1. The appellant was admitted to a nursing facility as a short-term patient in July 2022.
2. The appellant reached the six-month mark for her nursing home admission in January 2023.
3. Prior to January 2023, the appellant was eligible for a home maintenance needs allowance.
4. On January 20, 2023, MassHealth notified the appellant that her patient-paid amount would increase from \$393.70 to \$1,526.70 as of February 1, 2023. The PPA was calculated by taking her total income of \$1,599.50 and subtracting the \$72.80 personal needs allowance.
5. The appellant is not eligible for any other deductions in the PPA calculation.

Analysis and Conclusions of Law

The issue in this appeal is whether MassHealth correctly determined a change in the appellant's patient-paid amount beginning in February 2023. The PPA is the amount that a member in a long-term care facility must contribute to the cost of his or her care under the laws of the

Commonwealth of Massachusetts. 130 CMR 515.001. By regulation, MassHealth allows several deductions from the member's income in calculating the PPA. This includes a deduction for the maintenance of a former home, described as follows in 130 CMR 520.026(D):

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.

In this case, MassHealth applied the home maintenance needs deduction for the first six months of the appellant's nursing home stay, between July 2022 and January 2023. Consistent with the provision above, MassHealth ended this allowance at the conclusion of the six-month period. Though it is understandable that the appellant's daughter would like the additional income available to maintain the appellant's housing expenses in the community – with the hope that she will eventually return home – the regulation does not provide for this allowance beyond six months. There is also no evidence that the appellant qualifies for any of the other deductions (other than the standard \$72.80 personal needs allowance) set forth in 130 CMR 520.026. As MassHealth's calculation of the patient-paid amount 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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Taunton MEC

