

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2301292

Decision Date: 4/4/2023

Hearing Date: 03/21/2023

Hearing Officer: Alexis Demirjian

Appearance for Appellant:




Appearance for MassHealth:

Jessica Barney, 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:	Denied	Issue:	Patient Paid Amount
Decision Date:	4/4/2023	Hearing Date:	03/21/2023
MassHealth's Rep.:	Jessica Barney	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 February 8, 2023, MassHealth approved the Appellant's application for MassHealth benefits and determined the patient paid amount was \$1,361.20 every month. (see 130 CMR 515.001 and Exhibit 3). The Appellant filed this appeal in a timely manner on February 16, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Challenging the scope of services is valid grounds for appeal before the Board of Hearing. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the Appellant's long-term care application and determined a Patient Pay Amount ("PPA") of \$1,361.20.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining that Appellant's PPA.

Summary of Evidence

The Appellant's representative, who is the Appellant's sister, testified that the family was not aware that the patient would be required to pay a patient paid amount to the nursing home. The Appellant's representative testified that upon their sincere belief that the Appellant would be discharged from the nursing home the family used the Appellant's income to maintain his apartment, thus there is no money to pay the outstanding patient pay amount owed to the nursing home.

In filing this appeal, the Appellant's representative sought to reduce the Appellant's PPA amount by deducting the amount of money spent on maintenance of the Appellant's home.

MassHealth explained that a deduction for maintenance of a home must meet certain criteria. In this matter, the Appellant was admitted to the nursing facility on [REDACTED] for short term level of care through [REDACTED]. On December 19, 2022, a Status Change for Member in a Nursing Facility or Chronic Disease and Rehabilitation was filed with MassHealth with a requested start date of November 27, 2022. The documentation submitted with the Appellant's application did not include a certification by a medical authority certifying that the Appellant was likely to return home within six months after the month of admission. Instead, the documentation indicated that Appellant intended stay in the nursing home was for more than six months and indicated the Appellant would not be returning to his home.

On February 8, 2023, MassHealth approved the Appellant's long term care application and determined the Appellant's PPA amount to be \$1,361.20. MassHealth calculated that amount based on the Appellant's social security income of \$1,424 per month less a personal needs allowance of \$72.80 per month.

Additionally, MassHealth approved payment of the Appellant's Medicare Part B premium. The notice states that Social Security will no longer deduct the Medicare Part B premium from the monthly benefit payment. The Appellant will get a refund from Social Security for the Medicare Part B premiums that have been taken out of the Appellant's Social Security check since the MassHealth eligibility date in the notice. Thus, the Appellant will be receiving a refund check dating back to the eligibility date of November 1, 2022. The Appellant was instructed that the refund amount should be applied to any PPA amount that is due the nursing facility. Once the Appellant's balance is settled with the nursing home, any remaining funds may be credited to the Appellant's personal needs account.

Findings of Fact

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

1. The Appellant was admitted to a nursing facility on [REDACTED] for short term level of care through [REDACTED] (Testimony)
2. On January 8, 2023, MassHealth received a long-term care conversion indicating that from

██████████ onward the Appellant would be a long term care resident of his nursing facility. (Testimony; Exhibit 4)

3. The documentation submitted with the Appellant's application did not include a certification by a medical authority certifying that the Appellant was likely to return home within six months after the month of admission. (Testimony; Exhibit 4)

4. On February 8, 2023, MassHealth approved the Appellant's long-term care application. (Testimony; Exhibit 3)

5. The February 8, 2023 notice indicated that the Appellant would have a PPA amount of \$1,361.20, which was based on the Appellant's social security income of \$1,434 less the personal needs allowance of \$72.80. (Testimony; Exhibit 3)

6. The Appellant was approved for Medicare Buy-In and will be receiving a refund from Social Security that should be used to pay any outstanding balance at the nursing facility. (Exhibit 3)

Analysis and Conclusions of Law

MassHealth's regulations define an institution medical as a facility public or private "providing acute, chronic, or long-term care, unless otherwise defined within 130 CMR 515.000 through 522.000: *Other Division Programs*. This includes **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**." See 130 CMR 515.001 (emphasis added).

An individual is considered institutionalized for MassHealth purposes if he or she is placed in one or more medical institutions where the placement lasts or is expected to last for a continuous period of at least 30 days. 130 CMR 515.001. Members in a long-term-care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts, this contribution is referred to as the "patient-paid amount" or PPA. See 130 CMR 515.001.

Institutionalized members of MassHealth are not subject to a countable income limit but are required to pay a portion of their income to the nursing facility (minus specific deductions set forth in 130 CMR 520.026). See 130 CMR 520.009(A)(3).

In calculating the PPA, the regulations allow certain deductions to be made from an institutionalized member's income. See 130 CMR 520.009. These deductions are listed at 130 CMR 520.026, which states that "[g]eneral 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." The personal-needs allowance, \$72.80 per month, is set by regulation. See 130 CMR 520.025. MassHealth allows a deduction for maintenance of a former

home. See 130 CMR 520.026 (D).

130 CMR 520.026 (D)(1) provides the following:

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.

The Appellant's representative testified that they were unaware that the patient would be required to pay a patient paid amount to the nursing home. She further testified that upon the family's sincere belief that the Appellant would be discharged from the nursing home they used the Appellant's income to maintain an apartment, thus there is no money to pay the outstanding patient pay amount.

In filing this appeal, the Appellant's representative sought to reduce the PPA amount by deducting the amount of money spent on maintenance of the Appellant's home.

Despite the Appellant's family's sincere belief that the Appellant would be returning home, the Status Change for A Member in a Nursing Facility or Chronic Disease and Rehabilitation Inpatient Hospital submitted to MassHealth indicates that the Appellant was expected to be in the nursing home longer than six months. This form also includes the required certification for an individual to qualify for the maintenance of home deduction under 130 CMR 520.026 (D) (1). That area of the form was left blank, further supporting MassHealth's position that the Appellant was not entitled to the home maintenance deduction.

MassHealth received a conversion on January 8, 2023, and the case was approved on February 8, 2023, with a long term care start date of November 1, 2022. Since the documentation submitted on November 27th indicated that the Appellant was not expected to return home within six months of the admission a home-maintenance allowance is not allowed pursuant to 130 CMR 520.006 (D).

Unfortunately, the facts do not support a finding that a home maintenance deduction should have been applied in this matter. Accordingly, 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.

Alexis Demirjian
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

Appellant Representative:

[REDACTED]

Appellant Representative:

[REDACTED]

Appellant Representative:

[REDACTED]