

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2301379
<b>Decision Date:</b>	5/18/2023	<b>Hearing Date:</b>	03/27/2023
<b>Hearing Officer:</b>	Casey Groff	<b>Record Closed:</b>	04/07/2023

**Appearance for Appellant:**



**Appearance for MassHealth:**

Teisha Christie, Taunton MassHealth  
Enrollment Center



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	PPA; Home Maintenance Needs Allowance
<b>Decision Date:</b>	5/18/2023	<b>Hearing Date:</b>	3/27/2023
<b>MassHealth's Rep.:</b>	Teisha Christie	<b>Appellant's Rep.:</b>	Daughter/POA
<b>Hearing Location:</b>	Board of Hearings (Remote)	<b>Aid Pending:</b>	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 January 25, 2023, MassHealth informed Appellant that he was approved for MassHealth long-term-care (LTC) benefits and owed the nursing facility a patient-paid amount (PPA) of \$1,443.20 per month, effective November 10, 2022. See Exhibit 1; 130 CMR 520.025; 520.026. On February 21, 2023, the Board of Hearings (BOH) received a request for a fair hearing on Appellant's behalf; however, the individual requesting the appeal did not submit documentation to demonstrate that she was an authorized appeal representative. See Exhibit 2; 130 CMR 610.015(B). On February 23, 2023, BOH dismissed the fair hearing request due to lack of authorization. See Exh. 3 and 130 CMR 610.034-035. On March 1, 2023, Appellant submitted his power of attorney authorizing his hearing representative.<sup>1</sup> Accordingly, BOH vacated the dismissal and scheduled a hearing to take place on March 27, 2023. See Exhs. 4-5. Challenge of a PPA is valid grounds for an appeal. See 130 CMR 610.032.

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<sup>1</sup> According to documentation, Appellant granted both his wife and daughter with durable power of attorney (POA). Appellant's daughter, who lived out of state, explained that she initiated the hearing process by having her mother fill out the fair hearing paperwork, on her behalf. Appellant's wife signed the fair hearing request but designated her daughter, an alternate POA, to handle the appeal.

## Action Taken by MassHealth

MassHealth informed Appellant that, effective November 10, 2022, he owed the facility a PPA of \$1,443.20 per month.

## Issue

The appeal issue is whether MassHealth was correct in determining that Appellant had a PPA of \$1,443.20.

## Summary of Evidence

A MassHealth representative appeared at the hearing and testified that on December 29, 2022, MassHealth received a long-term care application on behalf of Appellant. Appellant, a single male under the age of 65, had been admitted to a nursing facility after he had a stroke. During the application process, Appellant sent MassHealth requested verifications, including an SC-1 form that requested a conversion to long-term care beginning November 10, 2022. The SC-1 included physician certification that Appellant's length of stay at the facility would exceed six-months. Appellant also submitted verification to MassHealth showing he received gross monthly income of \$1,516.00 from social security.

On January 25, 2023, MassHealth notified Appellant that he was approved for long-term care benefits effective November 10, 2022 and would owe a patient-paid amount (PPA) to the nursing facility of \$1,443.20 per month to help cover the cost of his care. See Exh. 1. The MassHealth representative explained that the PPA was calculated by deducting a standard monthly personal needs allowance (PNA) of \$72.80 from Appellant's social security income.

Appellant's daughter, who has capacity as power of attorney (POA), appeared at the hearing by telephone and testified that Appellant owns a home in the community. Appellant uses his social security income to pay the mortgage on the property. His daughter explained that Appellant was admitted to the facility following a stroke, however the goal is to have him return home once he is more stable, including use of a tracheotomy. With the PPA obligation, Appellant will not have sufficient income to cover the cost of his mortgage.

The MassHealth representative explained that MassHealth permits a limited 6-month PPA deduction for home maintenance expenses when a physician has assessed and certified that the applicant is likely capable of being discharged from the facility in six months or less. Appellant did not satisfy this criteria, as the SC-1 included physician certification that Appellant would require long-term care with an expected length of stay to exceed six months or more. For MassHealth to re-calculate the PPA, Appellant's nursing facility would need to submit a corrected SC-1 including

physician certification that Appellant is likely to be discharged six months or less.

A post-hearing record-open period was granted for Appellant to submit a corrected SC-1 and if provided, for MassHealth to re-assess Appellant's PPA calculation. See Exh. 6. On March 30, 2023, Appellant's representative indicated she had not heard back from the nursing facility and requested an extension of the record open period. Id. A week later, on April 5, 2023, MassHealth responded that it had still not received any documentation from Appellant. Id. On April 6, 2023, Appellant was given an opportunity to respond with an update on the status of the corrected SC-1 and physician certification. Id. Appellant's representative did not provide an update or request a further extension of the record-open period. Accordingly, the hearing record closed on April 7, 2023.

## Findings of Fact

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

1. On December 29, 2022, MassHealth received a long-term care application on behalf of Appellant.
2. Appellant, a single male under the age of 65, was admitted to a nursing facility after sustaining a stroke.
3. During the application process, Appellant submitted an SC-1 that requested a benefit start date of 11/10/2022 and included physician certification that Appellant's length of stay at the facility would exceed six-months.
4. Appellant receives gross monthly income of \$1,516.00 through social security.
5. On January 25, 2023, MassHealth notified Appellant that he was approved for long-term care benefits effective November 10, 2022 and would owe a PPA to the nursing facility in the amount of \$1,443.20 per-month to help cover the cost of his care.
6. MassHealth calculated the PPA by subtracting a standard PNA of \$72.80 from Appellant's income.
7. Appellant owns a home in the community and has used his monthly income to pay the mortgage.
8. Appellant's representative was granted additional time post-hearing to submit evidence reflecting Appellant would likely be discharged from the facility within 6 months or less; however, no such evidence was provided during the record-open period.

## Analysis and Conclusions of Law

At issue in this appeal is whether MassHealth was correct in determining that Appellant owed a monthly PPA of \$1,443.20 to the facility. MassHealth defines the “patient-paid amount” as the amount that a “member in a long-term-care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts.” 130 CMR 515.00190. Typically, the PPA is comprised of the member’s total countable income amount less certain permissible deductions. See 130 CMR 520.009(3); 130 CMR 520.014(B). The regulation that discusses these deductions, states, in relevant part, the following:

### 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.

....

### (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.

....

See 130 CMR 520.026.

At hearing, Appellant requested a reduction in his PPA to allow him to make continued payments on his mortgage. Appellant was granted additional time post-hearing to submit appropriate certification indicating that Appellant is likely to return home within six months of admission. Despite the record-open period, Appellant’s representative did not submit additional evidence into the record for consideration. There is no evidence that Appellant meets the requisite criteria to obtain a PPA deduction for maintenance of his home. Appellant did not meet his burden of proof in showing that MassHealth erred in establishing a PPA of \$1,443.20.

Based on the foregoing, 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.

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Casey Groff  
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

