

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2302041
Decision Date:	6/6/2023	Hearing Date:	04/14/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellants:



Appearance for MassHealth:

Elizabeth Rodriguez (Tewksbury MEC) via
telephone



*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:	Approved	Issue:	Long Term Care (LTC) Patient Paid Amount (PPA)
Decision Date:	6/6/2023	Hearing Date:	04/14/2023
MassHealth's Rep.:	Elizabeth Rodriguez	Appellant's Rep.:	
Hearing Location:	Tewksbury MassHealth Enrollment Center		

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 March 8, 2023, MassHealth approved the appellant husband's application for MassHealth LTC benefits with a monthly patient paid amount (PPA) of \$2,218.00. (See 130 CMR 520.009; 520.026 and Exhibit (Ex.) 1, pp. 12-13). On the same date, MassHealth informed the appellant wife that her PPA would change from \$1,148.00 per month to \$1,305.20 per month on April 1, 2023, because of a change in her circumstances. (See 130 CMR 520.009; 520.026 and Ex. 1, pp. 14-15). The appellants filed appeals in a timely manner on March 14, 2023. (See 130 CMR 610.015(B) and Ex. 1, pp. 3-4). Determinations regarding the scope and amount of assistance are valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant husband's application for LTC benefits with a PPA of \$2,218.00 and changed the appellant wife's PPA from \$1,148.00 to \$1,305.20.

Issue

The appeal issue is whether MassHealth correctly calculated the appellants' PPAs, pursuant to 130 CMR 520.009, and 520.026.

Summary of Evidence

The MassHealth representative stated that the appellant husband's notice was issued on March 8, 2023. MassHealth calculated that the PPA would be \$2,218.80 per month. The appellant husband's income was \$2,338.20 from Social Security with a pension of \$110.60, for a total of \$2,448.80 per month. From this amount, MassHealth deducted the personal needs allowance (PNA) of \$72.80, and \$157.20 that the appellant husband paid toward a health insurance plan, for a total of \$230.00 of allowances. The MassHealth representative stated that the health insurance plan covered both the appellant husband and wife and totaled \$314.40 per month. MassHealth divided this amount by two and applied it as the appellant husband's deduction.

The appellants' representative, the appellants' son, stated that there was a problem with MassHealth's calculation of both the appellants' PPAs. He stated that MassHealth erred in calculating the health insurance deduction because the appellants' total premium was \$628.80 per month. Each appellant should have received a deduction of \$314.40 from the total income. The appellant's representative stated that the appellants lived together at the same nursing facility in the same room. Each appellant only received a deduction of \$157.20 for health insurance. (Ex. 1, pp. 13, 15).

The MassHealth representative stated that, despite the fact that this was a joint application, she only had access to the appellant husband's information. She did not "own" the appellant wife's application and did not have her income information in front of her. That said, the MassHealth representative acknowledged that MassHealth made an error concerning the calculation of the health insurance deduction. The MassHealth representative stated that she was able to enter the correct deduction of \$314.40 into each of the appellants' calculations. The MassHealth representative stated that this would result in a PPA of \$2,061.60 for the appellant husband. The MassHealth representative indicated that new notices would be sent. The appellants' representative wanted to make sure that the appellant wife received the same recalculation based on her monthly income of \$1,535.20. (Ex. 1, p. 15).

Findings of Fact

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

1. Through a notice dated March 8, 2023, MassHealth approved the appellant husband's application for MassHealth LTC benefits with a monthly PPA of \$2,218.00. (Ex. 1, pp. 12-13).

2. On the same date, MassHealth informed the appellant wife that her PPA would change from \$1,148.00 per month to \$1,305.20 per month on April 1, 2023, because of a change in her circumstances. (Ex. 1, pp. 14-15).
3. The appellants live together in the same nursing facility in the same room. (Testimony of the appellants' representative).
4. The appellant husband's income was \$2,338.20 from Social Security with a pension of \$110.60, for a total of \$2,448.80 per month. (Testimony of the MassHealth representative; Ex. 1, p. 13).
5. From this amount, MassHealth deducted the PNA of \$72.80, and \$157.20 that the appellant husband paid toward a health insurance plan, for a total of \$230.00 of allowances. (Testimony of the MassHealth representative; Ex. 1, p. 13).
6. The appellant wife also received a health insurance deduction of \$157.20 which, with the PNA of \$72.80, was deducted from her monthly income of \$1,535.20 to reach a PPA of \$1,305.20. (Testimony of the appellant's representative; Ex. 1, p. 15).
7. The appellants both pay a total of \$628.80 per month toward their health insurance premium. (Testimony of the appellant's representative).
8. MassHealth applied the corrected health insurance deduction of \$314.40 to the appellant husband's countable income, reaching a figure of \$2,061.60. (Testimony of the MassHealth representative).

Analysis and Conclusions of Law

When spouses live in the same long-term-care facility, their income and assets are not considered mutually available. (130 CMR 520.002(B)(1)). Under this circumstance, an individual's gross earned and unearned income, less certain business expenses and standard income deductions, is referred to as the countable income amount.¹ (130 CMR 520.009(A)(1)). For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the PPA. (130 CMR 520.009(A)(3)). These general income deductions include a deduction for current health insurance premiums or membership costs when payments are made directly to an insurer or a managed-care organization. (130 CMR 520.026(E)(1)).

The record shows by a preponderance of the evidence that MassHealth erred in the calculation of

¹ Under most other circumstances, an individual and spouse's gross income is considered together. (See 130 CMR 520.002(A)(1); 520.009(A)(1)).

both appellants' PPA. The appellants live together in the same nursing facility in the same room. They pay a total of \$628.80 towards their health insurance premium. Yet, MassHealth only deducted \$157.20, one quarter of the total. MassHealth should have divided the cost of the health insurance premium by two and applied \$314.40 in order to correctly calculate each of the appellants' PPAs. Therefore (as acknowledged by the MassHealth representative at the hearing), the appellant husband's PPA should have been \$2,061 after subtracting both the \$72.80 PNA and the \$314.40 health insurance deduction from his total monthly income of \$2,448.80. Similarly, the appellant wife's PPA should also be corrected and reduced by a further \$157.20 to \$1,148 (\$1,535.20 (total income) - \$72.80 (PNA) - \$314.40).

For the above stated reasons, the appeal is APPROVED.

Order for MassHealth

If it has not done so already, MassHealth must correct both the appellants' PPAs by applying the correct health insurance deduction of \$314.40 to each of their respective countable incomes. The change should be in effect from April 1, 2023. MassHealth should issue new notices indicating these changes if it has not already done so.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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