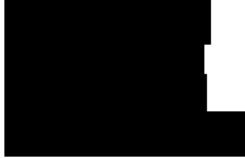


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302474
<b>Decision Date:</b>	6/20/2023	<b>Hearing Date:</b>	04/26/2023
<b>Hearing Officer:</b>	Rebecca Brochstein		

**Appearances for Appellant:**




**Appearances for MassHealth:**

Jennifer Carroll, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-Term Care / Patient-Paid Amount
<b>Decision Date:</b>	6/20/2023	<b>Hearing Date:</b>	04/26/2023
<b>MassHealth's Rep.:</b>	Jennifer Carroll, Taunton MEC	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	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 March 21, 2023, MassHealth notified the appellant that it would change her patient-paid amount (PPA) from \$3,137.20 to \$4,352.20 as of April 1, 2023 (Exhibit 1). The appellant filed a timely appeal on March 28, 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 \$3,137.20 to \$4,352.20 as of April 1, 2023.

### Issue

The issue presented on appeal is whether MassHealth correctly determined the appellant's PPA.

## Summary of Evidence

A caseworker from the Taunton MassHealth Enrollment Center appeared at the hearing telephonically and testified as follows: The appellant was admitted to a nursing facility as a short-term patient on [REDACTED]. Medicare paid for the early part of her stay at the facility. On January 13, 2023, MassHealth received a conversion application on the appellant's behalf. The appellant was approved for MassHealth coverage as of January 1, 2023. The MassHealth representative stated that the appellant was eligible for a "short-term allowance" (a home maintenance needs allowance, or HMNA) for six months from the date of admission, or September 28, 2022. On March 21, 2023, as the six-month period was ending, MassHealth notified the appellant that her patient-paid amount would increase from \$3,137.20 to \$4,352.20 as of April 1, 2023.

The appellant was represented by an attorney and by her son (who holds her power of attorney). The son described the period of time leading up to the appellant's admission to the nursing facility, during which he cared for her at home. He testified that she was initially admitted for rehabilitation with an expectation that she would return home; however, when she was still not ready to return home by December 2022, they completed MassHealth paperwork "to give her a six-month short-term window." He pointed out that the clinical screening that was completed in January 2023 found her eligible for short-term coverage, through June 9, 2023. See Exhibit 2. The son stated that they expected she would be able to keep some of her income to help maintain her residence so she could eventually return home. He testified that he was confused when he received the notification of the PPA increase because she was still short-term and expected to return home. He argued that the home maintenance needs allowance should be deducted from her PPA through June 9, 2023.

The appellant's attorney argued that the home maintenance needs allowance should have started on January 1, 2023, when the appellant was approved for MassHealth coverage. He referred to 130 CMR 520.026, which allows for the home maintenance needs allowance for six months from the date of admission. He argued that the plan is still for the appellant to return home, and that her HMNA should extend until June so she will be up to date on her bills if she does go home. The attorney maintained that the regulation refers to the applicant's "former home," which is not accurate in this case because the appellant still intends to return home. He also argued that the son should be considered a "dependent child" because even though he is not her tax dependent, he lives in the home and took care of his mother prior to her admission.

In response, the MassHealth representative testified that even though the appellant is not requesting MassHealth coverage until January 1, 2023, the six-month clock on the HMNA allowance started on the date of admission. She reiterated that the appellant was still eligible for the HMNA deduction from her PPA when it started in January 2023 because it was within six months of her admission date, but that the allowance terminated at the end of March 2023.

## **Findings of Fact**

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

1. On [REDACTED], the appellant was admitted to a nursing facility as a short-term patient. Medicare covered the first part of her stay at the facility.
2. On January 13, 2023, the appellant submitted a conversion application to MassHealth.
3. MassHealth approved the appellant for MassHealth coverage as of January 1, 2023, and set a patient-paid amount to begin on that date.
4. The appellant was eligible for a home maintenance needs allowance for six months beginning on the date of admission to the facility. That allowance was deducted from her patient-paid amount from when the PPA began in January 2023 through the end of March 2023.
5. On January 25, 2023, an aging services access point (ASAP) agency completed a clinical screening and found the appellant eligible for MassHealth nursing facility services on a short-term basis, through June 9, 2023.
6. On March 21, 2023, MassHealth notified the appellant that her patient-paid amount would increase from \$3,137.20 to \$4,352.20 as of April 1, 2023.
7. On March 28, 2023, the appellant filed a timely appeal of the PPA notice.

## **Analysis and Conclusions of Law**

The issue in this case is whether MassHealth was correct in increasing the appellant's patient-paid amount from \$3,137.20 to \$4,352.20 beginning in April 2023. The PPA increase corresponded to the termination of the home maintenance needs allowance, which helps a nursing facility resident maintain their former home in anticipation of returning to the community. The MassHealth regulations regarding the home maintenance needs allowance provide in relevant part as follows: 130 CMR 520.026(D)(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. (130 CMR 520.026(D)(1))

Consistent with this provision, MassHealth terminated the HMNA at the end of the sixth month

after the month of admission. Even if the appellant continues to plan for an eventual return home, the regulation is clear that the deduction ends six months after admission “regardless of the prognosis to return home at the time.” The appellant has not pointed to any other provision in the regulations that supports a different result.

For these reasons, the 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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Rebecca Brochstein  
Hearing Officer  
Board of Hearings

cc: Taunton MEC

