

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303599
Decision Date:	7/17/2023	Hearing Date:	06/02/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:



Appearance for MassHealth:

Stephanie Mowles, Quincy MEC

Interpreter:



*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>	LTC-PPA
<b>Decision Date:</b>	7/17/2023	<b>Hearing Date:</b>	06/02/2023
<b>MassHealth's Rep.:</b>	Stephanie Mowles	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote (phone)	<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 April 20, 2023, MassHealth changed the appellant's patient paid amount (PPA) to the nursing facility to \$4,507.10 beginning May 1, 2023. (130 CMR 520.026; Ex. 1; Testimony). The appellant filed this appeal in a timely manner on April 26, 2023, disputing the PPA. (Ex. 2). Dispute of a PPA is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth calculated a PPA of \$4,507.10 per month for the appellant to pay to the nursing facility beginning May 1, 2023.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in determining that the appellant's PPA to the nursing facility is \$4,507.10 a month beginning May 1, 2023.

## Summary of Evidence

The MassHealth representative appeared at hearing by telephone and testified that MassHealth approved appellant for short term care on April 10, 2023, granting coverage to the request date of February 1, 2023. On April 15, 2023, long term coverage was approved. Because appellant was now under long term care, MassHealth changed appellant's PPA amount. (Testimony; Ex. 5, p. 1). MassHealth issued a notice on April 20, 2023, informing appellant of a changes in his PPA amount. The amount of the PPA was changing from \$3,292.10 a month to \$4,507.10 a month, effective May 1, 2023. The PPA was calculated by taking appellant's net Social Security income of \$821.00, plus an annuity of \$591.83, plus a pension of \$3,282.69, less the allowable deductions of \$72.80 for personal needs allowance and \$115.62 for health insurance. (Testimony; Ex. 1, p. 2).

Appellant was represented by his daughter. She stated she understood how the PPA was calculated and she did not dispute the figures used to come to the PPA amount. She testified that the PPA is \$142.97 more than her father has in income. She also stated she didn't understand why gross income was considered instead of net income regarding Social Security. She testified that MassHealth recommended appellant stop paying federal taxes but she was concerned about that because appellant had to pay federal and state taxes in 2022.

## Findings of Fact

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

1. Appellant was approved for short term care on April 10, 2023, granting coverage to the request date of February 1, 2023. On April 15, 2023, long term coverage was approved. Because appellant was now under long term care, MassHealth changed appellant's PPA amount. (Testimony; Ex. 5, p. 1).
2. MassHealth issued a notice on April 20, 2023, informing appellant of a changes in his PPA amount. The amount of the PPA was changing from \$3,292.10 a month to \$4,507.10 a month, effective May 1, 2023. (Ex. 1; Testimony).
3. Appellant's gross Social Security monthly income was \$985.90.00 per month. MassHealth gave appellant an allowance of \$164.90 from his gross Social Security to pay his Medicare premium. (Ex. 1, p.2; Ex. 5, pp. 6, 9; Testimony).
4. Appellant has a net Social Security income of \$821.00. (Ex. 1, p. 2).
5. Appellant has an annuity income of \$591.83. (Ex. 1, p. 2; Ex. 5, p. 7; Testimony).

6. Appellant has a pension income of \$3,282.69. (Ex. 1, p. 2; Ex. 5, p. 6; Testimony).
7. Appellant has a total countable income of \$4695.52. (Ex. 1, p. 2; Testimony).
8. Appellant has a personal needs allowance of \$72.80. (Ex. 1, p. 2; Testimony).
9. Appellant has a health insurance allowance of \$115.62. (Ex. 1, p. 2; Ex. 5, p. 8; Testimony).
10. Appellant's PPA was determined by subtracting his allowances, totaling \$188.42, from his income, totaling \$4,695.52, for a PPA of \$4,507.10. (Ex. 1, p. 2; Ex. 5; Testimony).
11. The appeal representative does not dispute the calculation of the PPA. (Testimony).

## **Analysis and Conclusions of Law**

### 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. See 130 CMR 520.026.

The appellant's total monthly income is \$4,695.52, by adding net social security of \$821, plus an annuity of \$591.83, plus a pension of \$3,282.69. (Ex. 1, p. 2; Testimony). There is no spousal maintenance allowance, dependent family member needs allowance or home maintenance allowance and thus those deductions are inapplicable. In calculating the PPA, MassHealth deducts \$72.80 per month for the appellant's PNA, pursuant to regulation. MassHealth gave an allowance for appellant's health insurance in the amount of \$115.62.<sup>1</sup> (Ex. 1, p. 2; Testimony). Total allowances given were \$188.42.

While it is unfortunate that appellant's monthly income is less than the amount of the PPA, the appellant's PPA was correctly calculated under the regulations to be \$4,507.10 beginning May 1, 2023. The appeal is denied.

## **Order for MassHealth**

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<sup>1</sup> MassHealth gave appellant an allowance of \$164.90, subtracted from his gross Social Security of \$985.90, to pay his Medicare premium.

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.

## **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.

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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

[REDACTED]