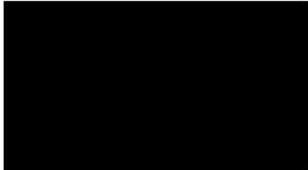


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306659
Decision Date:	10/30/2023	Hearing Date:	09/15/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:



Appearance for MassHealth:

Jonathan Gonzalez, Charlestown 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

Appeal Decision:	Denied	Issue:	Long Term Care; Patient Paid Amount
Decision Date:	10/30/2023	Hearing Date:	09/15/2023
MassHealth's Rep.:	Jonathan Gonzalez	Appellant's Rep.:	
Hearing Location:	Remote (phone)	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 July 20, 2023, MassHealth changed the appellant's patient paid amount (PPA) to the nursing facility to \$4,068.71 beginning August 1, 2023. (130 CMR 520.026; Ex. 1; Testimony). The appellant filed this appeal in a timely manner on July 27, 2023, disputing the PPA. (Ex. 2). Dispute of a PPA is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth changed the amount of PPA appellant must pay to \$4,068.71 monthly beginning August 1, 2023.

Issue

Was MassHealth was correct, pursuant to 130 CMR 520.026, in determining that the appellant's PPA to the nursing facility is \$4,068.71 a month beginning August 1, 2023.

Summary of Evidence

The MassHealth representative and the appeal representative appeared by telephone and were sworn. The MassHealth representative stated that appellant was notified in [REDACTED] that he was losing his short-term allowance because he was being placed into long term care. Because appellant was now under long term care, MassHealth changed appellant's PPA amount. (Testimony; Ex. 1). The amount of the PPA was changing from \$2,853.71 a month to \$4,068.71 a month, effective August 1, 2023. The PPA was calculated by taking appellant's net Social Security income of \$1,398.30.00, plus a gross pension of \$2,755.61, less the allowable deductions of \$72.80 for personal needs allowance and \$12.40 for health insurance. (Testimony; Ex. 1).

Appellant was represented by his daughter, who was also his power of attorney. She testified that she was unclear why MassHealth considered gross income for appellant's pension and net income for social security. She stated taxes are taken out of appellant's pension. (Ex. 5). Because taxes are taken out of his pension, he only receives \$2,315.61. (Testimony; Ex. 5). She asked where appellant is supposed to make up the difference. The MassHealth representative recommended appellant stop having taxes taken out of his pension. (Testimony).

Findings of Fact

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

1. Appellant was notified in [REDACTED] that because he was now under long term care, MassHealth changed his PPA amount. (Testimony; Ex. 1).
2. The amount of the PPA was changing from \$2,853.71 a month to \$4,068.71 a month, effective August 1, 2023. (Ex. 1; Testimony).
3. Appellant has a net Social Security income of \$1,398.30. (Testimony; Ex. 1, p. 2).
4. Appellant has a gross pension income of \$2,755.61. (Ex. 1, p. 2; Ex. 5; Testimony).
5. Appellant has a personal needs allowance of \$72.80. (Ex. 1, p. 2; Testimony).
6. Appellant has a health insurance allowance of \$12.40. (Ex. 1, p. 2; Testimony).
7. Appellant's PPA was determined by subtracting his allowances, totaling \$85.20, from his income, totaling \$4,153.91, for a PPA of \$4,068.71. (Ex. 1, p. 2; Testimony).
8. Appellant faxed a bill totaling \$198.50 a month from a private insurance provider to the Board of Hearings but never provided this information to MassHealth who, therefore, never

factored this information into the PPA calculation. (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 \$4,153.91, by adding net social security of \$1,398.30, plus appellant's gross monthly pension of \$2,755.61. (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 \$12.40.¹ (Ex. 1, p. 2; Testimony). Total allowances given were \$85.20.

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 \$4,068.71 beginning August 1, 2023. 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

¹ The appeal representative stated at hearing that appellant pays \$198.50 a month for supplemental private insurance. She faxed a copy of the private insurance bill to the Board of Hearings before the hearing and it was marked at hearing as Exhibit 6. The MassHealth representative stated he did not know about this insurance and therefore it was not factored into the PPA. The appeal representative stated she only faxed it to the Board of Hearings. The appeal representative stated she would email the private bill to this hearing officer who would then forward to the MassHealth representative. However, no email was ever received by this hearing officer from the appeal representative. The appeal representative is encouraged to update appellant's information with MassHealth.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

