

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307076
Decision Date:	10/19/2023	Hearing Date:	September 28, 2023
Hearing Officer:	Brook Padgett		

Appellant Representative:



MassHealth Representative:

Heather Prunier, Tewksbury MEC



***Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171***

APPEAL DECISION

Appeal Decision:	Denied	Issue:	PACE Eligibility 130 CMR 519.007
Decision Date:	10/19/2023	Hearing Date:	September 28, 2023
MassHealth Rep.:	H. Prunier	Appellant Rep.:	Son
Hearing Location:	Springfield		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The Appellant received a notice dated August 08, 2023 stating: "We have made a change to the monthly amount you pay to your PACE provider because of a change in your circumstances. Starting with the month after the date at the top of this notice, the new amount you must pay is \$2,175.10". (Exhibit 1).

The Appellant filed this appeal timely on August 16, 2023. (130 CMR 610.015(B); Exhibit 2).

Change in coverage is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth recalculated the Appellant's PACE contribution.

Issue

Did MassHealth correctly determine the Appellant's PACE monthly deductible payment?

Summary of Evidence

MassHealth testified that the Appellant is over 65 years old and a member of a family unit of one with income of \$2,882.79 (consisting of Social Security and two pensions). MassHealth indicated that the Appellant is over 300% of the Federal Benefit Rate ("FBR") (\$2,742.00) and is not eligible for MassHealth; however she is under the \$2,000.00 asset limit and therefore eligible for PACE after meeting a deductible. MassHealth stated that, to determine the PACE deductible, MassHealth first subtracts a \$20.00 unearned income disregard from the Appellant's countable income amount (\$2,862.00). Next, the Income Standard for a household size of one (\$522.00) is subtracted from the Appellant's countable income amount (\$2,340.00). Finally, the Appellant's Medicare self-pay amount (\$164.90) is subtracted, resulting in the deductible amount of \$2,175.10.

The Appellant's representative testified that his mother has very little income and that he is trying to keep her in her home and out of a nursing home, but after paying for PACE, there is no money left on which for her to live. The representative stated that the deductible leaves a little over \$500.00 but the Appellant must pay rent (\$500.00), cable (\$200.00), gas/electric (\$1,500.00), which leaves nothing for food and clothing.

MassHealth responded that the regulations require eligibility to be determined on gross income. When an individual applies for the PACE program, and is over the income limit, they are required to pay a premium (deductible). Unfortunately there are no other household deductions that apply.

Findings of Fact

1. The Appellant is disabled and over 65 years of age. (Exhibit 1 and Testimony).
2. The Appellant has a total gross monthly income of \$2,882.79. (Exhibit 1 and Testimony).
3. 300% of the Federal Benefit Rate (FBR) for a household of one is \$2,742.00.
4. The Appellant received a \$20.00 disregard from her income reducing her countable income amount to \$2,862.00. (Exhibit 1).
5. MassHealth calculated the Appellant's PACE eligibility by subtracting the income standard for a household size of one (\$522.00) and Medicare self-pay amount of (\$164.90) from the Appellant's countable income resulting in a deductible of \$2,175.10. (Exhibit 1).

Analysis and Conclusions of Law

To qualify for the PACE program, a single individual must have income at or below \$2,742.00. The Appellant is over 65 years old and a member of a family unit of one with gross income of

\$2,882.79. The regulations require that when an individual's income is over 300% of the FBR the individual can still obtain PACE eligibility if they pay a premium/deductible.

130 CMR 519.007: Individuals Who Would Be Institutionalized

130 CMR 519.007 describes the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home and community based services.

(C) Program of All-Inclusive Care for the Elderly (PACE).

(2) Eligibility Requirements. **In determining PACE eligibility, the MassHealth agency counts the income** and assets of only the applicant or member regardless of his or her marital status. **The applicant or member must meet all of the following criteria:**

- (a) be 55 years of age or older;
- (b) meet Title XVI disability standards if 55 through 64 years of age;
- (c) be certified by the MassHealth agency or its agent to be in need of nursing-facility services;
- (d) live in a designated service area;
- (e) have medical services provided in a specified community-based PACE program;
- (f) have countable assets whose total value does not exceed \$2,000 or, if assets exceed these standards, reduce assets in accordance with 130 CMR 520.004: Asset Reduction; and
- (g) **have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual.**

(3) **Income Standards Not Met. Individuals whose income exceeds the standards set forth in 130 CMR 519.007(C)(2) may establish eligibility for MassHealth Standard by meeting a deductible as described at 130 CMR 520.028 through 520.035. (*Emphasis added*).**

MassHealth correctly determined that the Appellant's PACE deductible of \$2,175.10 by subtracting the \$20.00 disregard from the Appellant's gross income of \$2,882.79 which reduced her total countable income amount to \$2,862.00.¹ That countable income was then reduced by the income standard deduction of \$522.00, along with the Appellant's Medicare self-pay amount of \$164.90, resulting in the monthly net deductible amount of \$2,175.10. The Appellant is required to pay this deductible amount to her provider to obtain PACE program eligibility.

Although the Appellant's representative credibly testified that the Appellant has little income after she pays her PACE deductible; the regulations require MassHealth use an individual's gross income when determining eligibility for the PACE program and does not allow any other deductions for

¹ When MassHealth performs this calculation they round down to the dollar. In this instance from \$2,862.79 to \$2,862.00. This reduction is in the appellant's favor.

additional household expenses.

MassHealth correctly determined the deductible for the Appellant's PACE program eligibility. This appeal is therefore 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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth representative: Tewksbury MEC