

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307196
Decision Date:	12/5/2023	Hearing Date:	10/20/2023
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:



Appearance for MassHealth:

Alysia Campbell, Springfield



*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:	LTC, PPA, home maintenance
Decision Date:	12/5/2023	Hearing Date:	10/20/2023
MassHealth's Rep.:	Alysia Campbell	Appellant's Rep.:	DPOA
Hearing Location:	Springfield (remote)	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

By notice dated June 21, 2023, MassHealth notified Appellant that her patient paid amount (PPA) would increase from \$213.40 to \$1,428.40 on July 1, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on August 18, 2023. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032. At Appellant's request, the hearing initially scheduled for September 21, 2023 was rescheduled to October 20, 2023. Exhibit 3.

Action Taken by MassHealth

MassHealth notified Appellant that her PPA would increase from \$213.40 to \$1,428.40 on July 1, 2023.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant no longer qualified for a home maintenance needs allowance, or in not deducting taxes and insurance costs from the PPA.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant entered the nursing facility in December 2022 and was approved for short-term coverage with anticipation that Appellant could return home in six months. Appellant owned a home in the community. When Appellant was approved for coverage, MassHealth deducted a home maintenance needs allowance from her patient paid amount (PPA). The amount deducted was equal to 100% of the federal poverty level (FPL), \$1,215 per month. This is the standard amount given for maintenance of the home.

According to 130 CMR 520.026(D), a deduction allowed of maintenance of a former home will terminate six months after the date of admission regardless of the member's prognosis of returning home at the time. On June 21, 2023, MassHealth notified Appellant that her PPA would increase from \$213.40 to \$1,428.40 after removing the \$1,215 deduction. MassHealth calculated Appellant's PPA by deducting \$72.80 for Appellant's personal needs account (PNA) and \$88.80 for other health insurance from Appellant's gross income of \$1,590.00 for a total PPA of \$1,428.40. At this time, Appellant converted from short-term coverage to long-term coverage and a lien was placed on the house.

Appellant's representative appeared by phone and testified as follows. Appellant is not able to pay her property taxes and insurance on her home now that the income is going to the nursing facility. Appellant's representative asked for MassHealth to consider allowing Appellant to make those payments for the home upkeep, particularly because there is a lien on the house. Appellant's representative testified it will be a hardship to continue to make these payments. Appellant's representative testified that he understands that payment needs to be made to the nursing home. Appellant's representative testified that he keeps insurance costs low and mitigates the expense, such as filing an abatement on the property taxes. Appellant's representative attempted to bundle Appellant's insurance with the representative's insurance. Appellant's representative seeks relief on these costs, arguing that the state has an interest in the property being insured and in not having the city place a tax lien. Appellant will not be able to return to the home given her care needs. Currently no one is living in the home.

The MassHealth representative testified that Appellant would be able to rent the home as a non-countable asset but the income would be countable. Regarding selling the home, the MassHealth representative testified that the estate recovery unit would determine how much it would take to satisfy the lien. Then, the proceeds of the sale would be countable and Appellant would have to spend down the proceeds, such as privately paying the nursing facility.

Appellant's representative asked for a decision as to whether the state would offer relief from the PPA due to payment of insurance and property taxes on the home.

Findings of Fact

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

1. Appellant admitted to the nursing facility in December 2022 and was approved for MassHealth to cover a short-term stay.
2. Between December 2022 and June 2023, MassHealth deducted \$1,215 from the PPA for a home maintenance needs allowance.
3. On June 21, 2023, MassHealth notified Appellant that her patient paid amount (PPA) would increase from \$213.40 to \$1,428.40 on July 1, 2023. Exhibit 1.
4. Appellant filed this timely appeal on August 18, 2023. Exhibit 2.
5. Appellant's monthly income is \$1,290 from Social Security and \$300 from a private pension. Appellant pays \$88.80 a month for other health insurance. Exhibit 1.
6. In 2023, the monthly FPL for a household of one was \$1,215.

Analysis and Conclusions of Law

Appellant seeks relief from MassHealth's calculation of the PPA, arguing that Appellant is not able to maintain her home in the community without a deduction from the PPA for payment of home insurance and property taxes.

In calculating the PPA, the regulations allow certain deductions to be made from an institutionalized member's income. 130 CMR 520.009. These deductions are listed at 130 CMR 520.026, which states that "[g]eneral 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" (emphasis added). The personal-needs allowance, \$72.80 per month, is set by regulation. 130 CMR 520.025. MassHealth allows a deduction for current health-insurance premiums made directly to the insurer. 130 CMR 520.026(E)(1).

The regulation regarding the home maintenance needs allowance is found at 130 CMR 520.026(D):

(D) Deductions for Maintenance of a Former Home.

(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.

(2) The amount deducted is the 100 percent federal-poverty-level income standard for one person.

Between December 2022 and June 2023, MassHealth assessed a deduction from Appellant's PPA of \$1,215, which was 100% of the FPL for an individual in 2023. As Appellant admitted to the facility in December 2022, she was eligible for this deduction until the end of the sixth month after admission, June 2023. MassHealth's assessment that Appellant's PPA would change in July 2023 follows the regulation.

Appellant's representative argued that it is in the state's interest that property taxes and home insurance be paid on the property, as the state has an interest in the property. While a reasonable argument, there is no basis in the regulations to allow for a deduction for these home expenses beyond the six month allowance offered by 130 CMR 520.026(D). As the relief sought by Appellant's representative is not available under the regulations, this appeal is denied.

During the hearing, Appellant's representative brainstormed other options for recovering these expenses, such as selling or renting the property. If Appellant was to lease her home and earn rental income, the cost of business expenses would be deducted from her countable income. "Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C)." 130 CMR 520.009(D). Business expenses that may be deducted from rental income include the following:

(C) Rental Income.

(1) Allowable business expenses from rental income include carrying charges, cost of fuel and utilities provided to tenants, and any maintenance and repair costs.

(2) If the individual occupies an apartment in the same building from which he or she receives rental income, carrying charges are prorated per unit. The cost of fuel and utilities are prorated if they are paid through a single heating unit or meter.

(3) The MassHealth agency may deduct actual maintenance and repair costs, other than cosmetic changes, from the amount of rental income if the individual verifies such expenses.

Assuming property taxes and home insurance are carrying charges as contemplated by MassHealth, Appellant would be able to deduct those costs from the total countable income amount for leasing her home.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186

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