

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2400609
Decision Date:	3/4/2024	Hearing Date:	02/09/2024
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:




Appearance for MassHealth:

Stephanie Herr, Tewksbury MEC



*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:	Patient Paid Amount
Decision Date:	3/4/2024	Hearing Date:	02/09/2024
MassHealth's Rep.:	Stephanie Herr	Appellant's Rep.:	
Hearing Location:	Remote		

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 December 15, 2023, MassHealth notified Appellant of a patient paid amount due (130 CMR 520.026 and Exhibit 1). Appellant filed this appeal in a timely manner January 11, 2024 (130 CMR 610.015(B) and Exhibit 2). Notice of a patient paid amount due is valid grounds for appeal (130 CMR 610.032). The hearing record remained open until the close of business February 9, 2024, to allow Appellant's attorney to resend property tax information to the hearing officer and MassHealth representative, which was timely received (Exhibit 4). MassHealth was instructed to submit a response, if necessary, no later than February 12, 2024. A response was not received, and the hearing record closed.

Action Taken by MassHealth

MassHealth notified Appellant of a patient paid amount increased from \$1,790.91 to \$1,837.91 effective January 1, 2024.

Issue

The appeal issue is whether, pursuant to 130 CMR 520.026, MassHealth correctly calculated Appellant's patient paid amount due.

Summary of Evidence

The hearing was conducted by telephone. The MassHealth representative testified that Appellant was admitted to a skilled nursing facility on [REDACTED]. An application for MassHealth long-term care benefits was submitted on November 23, 2021. MassHealth long-term care coverage has been effective since November 1, 2021. By notice dated December 15, 2023, MassHealth informed Appellant of an increased patient paid amount (PPA) from \$1,790.91 to \$1,837.91 effective January 1, 2024 (Exhibit 1). MassHealth records show Appellant's income is \$1,681 Social Security income and \$502.71 pension income, amounting to \$2,183.73 monthly income. There is no community spouse. In calculating the PPA, MassHealth allowed deductions from Appellant's income including \$72.80 personal needs allowance (PNA), and \$273 health insurance deduction to arrive at a PPA of \$1,837.91. The MassHealth representative testified that a deduction for the maintenance of the former home was not allowed because Appellant has been residing in a nursing facility for more than 6 months, and her former home is not occupied by an eligible dependent as described at 130 CMR 520.026(D).

Appellant was represented by an attorney who explained that Appellant's former home is currently unoccupied, and property taxes are in arrears. He added that Appellant's brother is managing the property, but lives hundreds of miles away. Counsel presented evidence of an agreement between the city and Appellant's brother to pay \$500 per month toward the property tax arrearage (Exhibit 2, p. 4, Exhibit 4). Counsel argued that allowing a deduction from Appellant's income for the maintenance of the former home would make sense to preserve the property which MassHealth intends to lien.

Findings of Fact

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

1. Appellant was admitted to a skilled nursing facility on [REDACTED].
2. An application for MassHealth long-term care benefits was submitted on November 23, 2021.
3. MassHealth long-term care coverage has been effective since November 1, 2021.
4. By notice dated December 15, 2023, MassHealth informed Appellant of an increased patient paid amount (PPA) from \$1,790.91 to \$1,837.91 effective January 1, 2024.
5. Appellant's income is \$1,681 Social Security income and \$502.71 pension income, amounting to \$2,183.73 monthly income.

6. There is no community spouse.
7. Appellant's former home is unoccupied.
8. MassHealth allowed deductions from Appellant's income including \$72.80 personal needs allowance (PNA), and \$273 health insurance deduction to arrive at a PPA of \$1,837.91.
9. Property taxes on Appellant's former home are in arrears. Appellant's brother is managing the property and entered into an agreement to pay \$500 per month toward the tax arrearage to the city where the property is located.

Analysis and Conclusions of Law

The Patient Paid Amount is the amount that a member residing in a long-term-care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts (130 CMR 515.001). Regulation 130 CMR 520.026 (A)-(E) outlines long-term care general income deductions that apply in the calculation of the Patient Paid Amount, which are limited to a Personal-Needs Allowance; Spousal-Maintenance Needs Deductions; Deductions for Family-Maintenance Needs, Deductions for the Maintenance of a Former Home, and Deductions for Health-Care Coverage and Other Incurred Expenses.

The issue here turns on 130 CMR 520.026(D): Deductions for Maintenance of a Former Home, which states:

(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.

Appellant was admitted to a skilled nursing facility on [REDACTED]. An application for MassHealth long-term care benefits was submitted on November 23, 2021. MassHealth long-term care coverage has been effective since November 1, 2021. Appellant's income is \$1,681 Social Security income and \$502.71 pension income, amounting to \$2,183.73 monthly income. MassHealth allowed deductions from Appellant's income including \$72.80 personal needs allowance (PNA), and \$273 health insurance deduction to arrive at a PPA of \$1,837.91 effective January 1, 2024. There is no community spouse; and Appellant's former home is unoccupied. On these facts, MassHealth was correct in not allowing Deductions for Maintenance of a Former

Home under 130 CMR 520.026(D), and otherwise correctly calculated Appellant's \$1,837.91 PPA. Accordingly, 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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc:

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