

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401098
Decision Date:	4/1/2024	Hearing Date:	02/27/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:



Appearance for MassHealth:

Jonathan Gonzalez, Charlestown MassHealth
Enrollment Center



*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:	4/1/2024	Hearing Date:	02/27/2024
MassHealth's Rep.:	Jonathan Gonzalez	Appellant's Rep.:	[REDACTED]
Hearing Location:	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

Through a notice dated December 15, 2023, MassHealth informed the appellant of an increase to his long-term care Patient Paid Amount. *See* 130 CMR 520.026 and Exhibit 1. The appellant filed this appeal in a timely manner on January 22, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Agency determinations regarding scope and amount of assistance are valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth increased the appellant's long-term care Patient Paid Amount.

Issue

The appeal issue is whether MassHealth correctly calculated the appellant's Patient Paid Amount.

Summary of Evidence

The appellant is an adult over the age of 65 who is currently receiving MassHealth Standard long-

term care benefits. He was represented at hearing by his sister and personal representative. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and evidence provided at hearing:

On December 15, 2023, MassHealth determined that the appellant received a cost-of-living adjustment that resulted in an increase to his Social Security benefits. As a result, on that day, MassHealth informed the appellant that his Patient-Paid Amount (PPA) would increase from \$747.50 to \$778.50 as of January 1, 2024. MassHealth verified the appellant's monthly income as being \$851.30 in Social Security benefits. In determining the appellant's PPA, MassHealth deducted the standard Personal Needs Allowance, and determined that he was entitled to no additional allowances.

The appellant's representative agreed with MassHealth's calculation of the appellant's income but reported that he has additional expenses that should be taken into consideration when determining his PPA. She reported that the appellant pays \$151.70 in monthly child support for his adult child, and further pays roughly \$10.00 for a life insurance policy, \$20.00 for his P.O. Box, \$25.00 for his cell phone, and \$45.00 for toiletries specifically needed for people of color each month. The appellant's representative argued that it is unfair that such expenses are not taken into consideration when determining a nursing home resident's monthly PPA.

Findings of Fact

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

1. The appellant is an adult over the age of 65 who is currently receiving MassHealth Standard long-term care benefits. Testimony, Exhibit 1, Exhibit 4.
2. On December 15, 2023, MassHealth determined that the appellant received a cost-of-living adjustment of his Social Security benefits that resulted in an increase to his Patient-Paid Amount (PPA) from \$747.50 to \$778.50 as of January 1, 2024. Testimony, Exhibit 1.
3. The appellant filed a timely request for fair hearing on January 22, 2024. Exhibit 2.
4. The appellant currently receives \$851.30 in monthly Social Security benefits. Testimony, Exhibit 1.
5. There is no evidence that the appellant supports a spouse or dependent child in the community, nor that he pays to maintain a home, pays out of pocket for health insurance benefits or medical expenses, or pays any guardianship fees. Testimony.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

Long-term care residents over the age of 65 may establish eligibility for MassHealth Standard coverage of their care if they meet the following requirements:

- (1) be younger than 21 years old or 65 years of age or older...
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment...
- (3) *contribute to the cost of care as defined at 130 CMR 520.026*: Long-term-care General Income Deductions;
- (4) have countable assets of \$2,000 or less for an individual... and
- (5) not have transferred resources for less than fair market value...

130 CMR 519.006(A) (emphasis added). That contribution to the cost of care is known as the Patient-Paid Amount (PPA). See 130 CMR 515.001. It is calculated by deducting certain costs listed at 130 CMR 520.026 from the member's monthly countable income. 130 CMR 520.009(A)(3). Those deductions include the following:

- The standard Personal-needs Allowance of \$72.80. 130 CMR 520.026(A);
- The spousal-maintenance needs deduction if the member has a community spouse. *Id.* at 520.026(B);
- Deductions for family maintenance needs if the member has a minor child, a dependent child, a dependent parent, or a dependent sibling who resides with the community spouse. *Id.* at 520.026(C);
- Deductions for maintenance of a former home. *Id.* at 520.026(D);
- Deductions for Health-care Coverage and other incurred expenses, including guardianship fees. *Id.* at 520.026(E).

The regulations provide no other deductions to calculate a member's PPA. Countable unearned income includes, in relevant part, "social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income." 130 CMR 520.009(D).

Here, MassHealth determined, and the appellant agrees, that the appellant's monthly income is \$851.30 in social security benefits. In determining the appellant's PPA, MassHealth subtracted the standard Personal-needs Allowance of \$72.80, leaving an amount of \$778.50. There is no evidence in the record that the appellant is entitled to any other deduction. Although his representative reports that he is married, the spouse does not seem to be sharing a family home, nor is she relying on the appellant to support her. There was no evidence of a primary residence, nor of any additional health-care coverage or incurred expenses such as guardianship fees.¹

The appellant's representative did testify that the appellant pays child support each month. However, no evidence was provided of these payments, and where that child is reported to be an adult and there is no community spouse, the regulations do not allow for such a deduction to be made. Thus, I find no error with MassHealth's calculation of the appellant's Patient-Paid Amount. MassHealth correctly issued the December 12, 2023, notice informing the appellant of the increase to his PPA.

To the extent that the appellant argues that these requirements unfairly burden him and other elderly individuals, this fair hearing offers him no mechanism for a remedy, and the appellant should seek relief in the courts. See 130 CMR 610.082(C) ("If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency...[and] cannot rule on the legality of such law or regulation and [such a challenge] must be subject to judicial review in accordance with 130 CMR 610.092").

For the foregoing reasons, the appeal is hereby 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.

¹ The appellant's representative reported that the appellant has paid out-of-pocket for medical expenses related to his amputation, but provided no evidence of these expenses. She was encouraged to submit documentation demonstrating these payments to MassHealth to seek an adjustment of the PPA.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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