

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401270
Decision Date:	04/05/2024	Hearing Date:	03/01/2024
Hearing Officer:	Radha Tilva		

Appearance for Appellant:



Appearance for MassHealth:

Yassory Pena, Tewksbury MEC Rep.



*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:	Eligibility – PACE - deductible
Decision Date:	04/05/2024	Hearing Date:	03/01/2024
MassHealth's Rep.:	Yassory Pena	Appellant's Rep.:	■
Hearing Location:	Springfield MassHealth Enrollment Center	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

The appellant received a notice dated January 1, 2024 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 \$2,198.00" (Exhibit 1).

The appellant filed this appeal timely on January 25, 2024 (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 was represented by a case worker who testified that the appellant has been a member of the Program for All-inclusive Care for the Elderly ("PACE") since 2017. On June 20, 2023 MassHealth received a renewal with income of \$2,882.79 (Social Security + two pensions). MassHealth explained that there were notices sent in error and an appeal was held where the notices were corrected. The MassHealth representative testified that there was an income update since then from Social Security which made appellant's monthly total income \$2,915.21 (two pensions and Social Security) which puts her over the income limit for PACE. MassHealth stated that, to determine the PACE deductible, MassHealth first subtracts a \$20.00 unearned income disregard from appellant's countable income (\$2,915.21). Next, the income standard for a household size of one (\$522.00) is subtracted and finally the appellant's Medicare self-pay amount \$174.70 is subtracted resulting in the deductible amount of \$2,198.30.

The appellant was represented by her son who stated that he was not disputing his mother's income. The appellant's representative stated that his mother has very little income to live off of after she pays her rent and bills. She is wheelchair bound and has a disability. It was explained to appellant that PACE is an optional program, but appellant's son stated that she has to stay in the PACE program.

Findings of Fact

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

1. The appellant has been a member of PACE member since 2017.
2. MassHealth received an income update from Social Security increasing the appellant's gross monthly income to \$2,915.21.
3. MassHealth first subtracts a \$20.00 unearned income disregard from the appellant's countable income (\$2,915.21). Next, the income standard for a household size of one (\$522.00) is subtracted and finally the appellant's Medicare self-pay amount \$174.70 is subtracted resulting in the deductible amount of \$2,198.30.
4. The appellant is wheelchair bound and has very little income to survive off of after she pays her rent and bills.

Analysis and Conclusions of Law

The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing facility services living in the community (130 CMR 519.007(C)). To qualify for the PACE program, a single individual must have income at or below 300 % of the Federal Benefit Rate (FBR), which is equal to \$2,742.00 (130 CMR 519.007(C)(2)(g)). The Appellant is over 65 years old and a member of a family unit of one with gross income of \$2,915.21. 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 the appellant's PACE deductible of \$2,198.30 by subtracting the \$20.00 disregard from the appellant's gross income of \$2,915.21 which reduced her total countable income amount to \$2,895.00. That countable income was then reduced by the income standard deduction of \$522.00 along with the appellant's Medicare self-pay amount of \$174.70 resulting in the monthly net deductible amount of \$2,198.30. The appellant is required to pay this deductible amount to her provider to obtain PACE program eligibility.

The appellant's representative credibly testified the appellant has little income left after she pays her PACE deductible. The regulations, however, require MassHealth to use an individual's gross income when determining eligibility for the PACE program and does not allow for any other deductions for 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.

Radha Tilva
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

Appellant Representative: [REDACTED]