

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



CORRECTED ADDRESS

Appeal Decision:	Denied	Appeal Number:	2401877
Decision Date:	6/11/2024	Hearing Date:	03/11/2024
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:



Appearance for MassHealth:

Nivdarla Anselme – Charlestown 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:	Long-term Care; Patient Paid Amount
Decision Date:	6/11/2024	Hearing Date:	03/11/2024
MassHealth's Rep.:	Nivdarla Anselme	Appellant's Rep.:	Mother
Hearing Location:	Charlestown MassHealth Enrollment Center - Room 2	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 January 4, 2024, MassHealth changed the appellant's patient paid amount (PPA) owed to the nursing facility beginning on February 1, 2024 (130 CMR 520.026; Exhibit 1). The appellant filed this appeal in a timely manner on February 6, 2024 (130 CMR 610.015(B); Exhibit 2). Dispute of a PPA amount is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth changed the appellant's monthly PPA from \$1,879.20 to \$2,054.20 beginning on February 1, 2024.

Issue

The appeal issue is whether MassHealth was correct in changing the appellant's PPA to the nursing facility to \$2,054.20 beginning on February 1, 2024.

Summary of Evidence

The MassHealth representative appeared at the hearing and testified as follows:

On February 22, 2023, MassHealth received the appellant's status change for a member in a nursing facility (SC-1), with an effective date of [REDACTED]. The appellant has remained in the facility since. On July 20, 2023, MassHealth notified the appellant that MassHealth removed the deduction for the maintenance of his former home. She explained that he was no longer eligible to receive this deduction as he had been in a nursing facility for over [REDACTED] at that point. Currently, the appellant is still a resident of the nursing facility. On January 4, 2024, MassHealth notified the appellant that his PPA would increase from \$1,879.20 to \$2,054.20 beginning on February 1, 2024, due to an increase in his Social Security income. MassHealth determined the appellant's monthly PPA as follows: the appellant's (increased) Social Security gross income of \$2,127.00 less a \$72.80 personal needs allowance, the result of which is \$2,054.20 (Exhibit 1, p. 2). The appellant noted in his appeal request that he cannot afford the PPA because he still pays rent (Exhibit 2). The MassHealth representative explained that because the appellant has been in a nursing home for over [REDACTED], the deduction to maintain his home no longer applies (See, 130 CMR 520.026(D)). Additionally, the remaining deductions found at 130 CMR 520.026 do not apply to the appellant because he is not currently married; he does not have a child younger than [REDACTED] years of age; he does not have a dependent child who he claims as a tax dependent; nor does the appellant have a dependent parent or dependent sibling.

The appellant was represented at the hearing by his mother, who testified that the appellant has been in a nursing home for a lengthy amount of time and expressed her dissatisfaction with the care that he receives from the facility. She stated that her son can be better cared for at home. The appellant's mother testified that she prepares his meals herself because he lost a great deal of weight since his admission to the facility. She further testified that her son developed extensive pressure wounds during his stay at the facility thus far, which resulted in subsequent hospitalization due to infections. The appellant's mother explained that she works for a hospital and is dismayed at the care her son has received from the nursing facility. She further explained that she is in constant contact with the hospital's wound clinic and plastic surgeon regarding her son's pressure wounds. The appellant's mother testified that she would do everything in her power to have her son discharged from the facility. In support of her position, the appellant's mother presented a list of documents, including: an application for MassHealth's Moving Forward Plan Residential Services (MFP-RS) waiver, a \$29.00 bill from AARP for Medicare Supplemental Insurance addressed to the appellant, an elder abuse complaint form, and a patient complaint form concerning complaints of a health care facility.

In response to the documents presented, the MassHealth representative explained that she does not have much information regarding the MFP waivers because they are handled by a separate department. Moreover, applying for an MFP waiver would not change the appellant's PPA amount, which the appellant's mother acknowledged. As to complaints about the nursing facility, the MassHealth representative reviewed the application presented and explained how to contact

the Ombudsmen's Office. With respect to the \$29.00 AARP bill, the MassHealth representative explained that MassHealth can deduct \$29.00 from the appellant's monthly PPA once the front and back of his [REDACTED] card is received. The appellant's mother testified that she did not have his card on her but will fax copies to MassHealth later.¹ The MassHealth representative provided her with the fax number for MassHealth. The appellant's mother cited additional examples of the facility's poor care given to her son. She also made inquiry on how to obtain MassHealth dental bills for dental services that were allegedly rendered to her son at the nursing facility. The MassHealth representative explained that she can contact customer service at 1-800-841-2900, however, because she is not a provider, she may have an issue obtaining that information by telephone. Additionally, she provided the appellant's mother with a records request form to be submitted to the MassHealth Privacy Office to obtain the requested records. The appellant's mother reiterated that the nursing facility is not properly caring for her son and prayed for guidance.

Findings of Fact

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

1. In February of 2023, MassHealth received the appellant's status change from the facility, with an effective date of [REDACTED]
2. In July of 2023, MassHealth notified the appellant that the deduction for maintenance of his former home no longer applied because he had been at the facility for over [REDACTED]
3. The appellant has remained at the nursing facility throughout [REDACTED]
4. In January of 2024, MassHealth notified the appellant that his monthly PPA increased from \$1,879.20 to \$,054.20 due to an increase in his gross Social Security income.
5. The appellant is entitled to a deduction for his personal needs allowance (PNA) of \$72.80. He does not qualify for any other deductions in the calculation of his PPA.
6. The appellant timely appealed this MassHealth action.

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth correctly calculated the appellant's PPA. The PPA is

¹ Post hearing, the MassHealth representative confirmed that MassHealth did not receive copies of the appellant's [REDACTED] P card (Exhibit 5).

the amount that a member in a long-term care facility must contribute to the cost of his or her care under the laws of the Commonwealth of Massachusetts (130 CMR 515.001).

The PPA calculation allows for certain deductions (130 CMR 520.026). Pursuant to 130 CMR 520.026, the following applies for long-term care general income deductions:

General 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. These deductions are used in determining the monthly patient paid amount.

(130 CMR 520.026).

Pursuant to 130 CMR 520.026(D), the MassHealth agency allows a deduction for maintenance of a home when a competent medical authority certified 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 is to return home at that time.

(130 CMR 520.026(D)).

In this case, MassHealth increased the PPA amount due to an increase in the appellant's Social Security income. In determining the PPA calculation, MassHealth deducted a personal needs allowance but previously determined that he is no longer eligible for the home maintenance needs deduction. This determination was correct. Because the appellant's nursing home stay began in [REDACTED], his eligibility for the home maintenance needs deduction ended 6 months thereafter. The appellant's representative did not dispute that the appellant has remained in a nursing facility for over [REDACTED]. Rather, her concern is the facility's care, or lack thereof, given to the appellant. Though I can empathize with the appellant's mother, unfortunately the regulation does not provide for a deduction for maintenance of a home beyond six months. However, as the MassHealth representative noted, she can opt to submit copies of the appellant's [REDACTED] card to MassHealth to have \$29.00 deducted from his PPA amount. There is no other evidence that the appellant qualifies for any other deductions (apart from the PNA). As there is no error in MassHealth's calculation of the appellant's changed PPA amount, this appeal is denied.²

Order for MassHealth

None.

² This denial does not preclude the appellant's representative from taking the appropriate steps with other agencies to address her concerns, as discussed at hearing.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

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