

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2403470
<b>Decision Date:</b>	6/20/2024	<b>Hearing Date:</b>	05/02/2024
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**



**Appearance for MassHealth:**

) via Jennifer Carroll (Taunton MEC) via telephone



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long Term Care/Patient Paid Amount
<b>Decision Date:</b>	6/20/2024	<b>Hearing Date:</b>	05/02/2024
<b>MassHealth's Rep.:</b>	Jennifer Carroll	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<b>Aid Pending:</b>	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 February 21, 2024, MassHealth approved the appellant's application for MassHealth Long Term Care (LTC) benefits starting on December 1, 2023 with a monthly patient paid amount (PPA) of \$1,381.27. (See 130 CMR 520.026 and Exhibit (Ex.) 1). On the same date, MassHealth informed the appellant that beginning on January 1, 2024, the appellant's PPA would change to \$1,426.27. (See 130 CMR 520.026 and Ex. 2). The appellant filed this appeal in a timely manner on March 8, 2024. (See 130 CMR 610.015(B) and Ex. 3). Any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance is valid grounds for appeal. (See 130 CMR 610.032).

In a letter dated March 11, 2024, BOH scheduled a hearing for April 2, 2024. (Ex. 5). On April 1, 2024, the appellant's representative requested that the hearing be rescheduled since the appellant was hospitalized. (Ex. 6). In a letter dated April 9, 2024, BOH rescheduled the hearing to May 2, 2024. (Ex. 8).

## Action Taken by MassHealth

MassHealth approved the appellant's application for LTC benefits beginning on December 1, 2023 with a monthly PPA of \$1,381.27, which increased to \$1,426.27 on January 1, 2024.

## Issue

The appeal issue is whether MassHealth correctly calculated the appellant's PPAs in accordance with 130 CMR 520.026.

## Summary of Evidence

The MassHealth representative testified to the following. The appellant is a woman over the age of 65 years old, who was admitted to the nursing facility in the spring of 2023 on a short term basis. (Testimony). On December 1, 2023, the appellant submitted an application for Long Term Care (LTC) benefits. (Testimony). On February 21, 2023, MassHealth approved the appellant for LTC benefits with a patient paid amount (PPA) of \$1,381.27 per month beginning December 1, 2023. (Testimony; Ex. 1; Ex. 2; Ex. 14, pp. 2, 3).

The MassHealth representative calculated the PPA in accordance with 130 CMR 520.026. (Testimony; Ex. 14, pp. 4-5). Effective December 1, 2023, the appellant's monthly income was \$1,454.07 consisting of \$1,397.00 from Social Security and \$57.07 from a pension. (Testimony; Ex. 1, p. 2; Ex. 2, p. 2). The MassHealth representative then subtracted the Personal Needs Allowance (PNA) of \$72.80 from that income. (Testimony; Ex. 1, p. 2; Ex. 14, pp. 4-5). The appellant did not have any other applicable allowances. (Testimony; Ex. 1, p. 2; Ex. 2, p. 2). The PPA was therefore \$1,381.27 beginning December 1, 2023. (Testimony; Ex. 1, p. 2). Effective January 1, 2024, the appellant's Social Security increased to \$1,442.00 because of the annual cost of living adjustment. (Testimony; Ex. 2, p. 2). Based solely on this increase, the PPA increased to \$1,426.27 beginning January 1, 2024. (Testimony; Ex. 2, p. 2). The appellant asserts in her appeal that her income was not substantial enough to cover the cost of the nursing facility. (Ex. 3). The appellant was discharged from the nursing facility on March 20, 2024. (Testimony).

The appellant's representative affirmed the correctness of the MassHealth representative's statements. (Testimony). He expressed numerous concerns regarding the appellant's care while she was at the nursing facility, raising allegations of substandard care. (Testimony). At this point, the appellant's representative was informed that the scope of the hearing was limited to a discussion of the calculation of the PPA. (Testimony). It was suggested that the appellant's representative contact the Long Term Care Ombudsman for further assistance, and he was given the contact number for that individual. (Testimony).

The appellant's representative detailed recent bills from the nursing facility and sought clarification on payment expectations and financial aid options. (Testimony). The appellant's representative was informed that he should speak with the nursing facility regarding any outstanding bills. (Testimony). The appellant's representative then emphasized the urgency of his financial situation. (Testimony). He lived in the appellant's house and feared homelessness due to potential expenses. (Testimony). The appellant's representative then stated he was concerned about the lien that MassHealth placed on the house when the appellant entered the nursing facility. (Testimony). The

MassHealth representative interjected by stating that once the appellant was discharged from the facility the lien was removed from the house. (Testimony).

## Findings of Fact

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

1. The appellant is a woman over the age of 65 years old, who was admitted to the nursing facility in the spring of 2023 on a short term basis. (Testimony).
2. On December 1, 2023, the appellant submitted an application for LTC benefits. (Testimony).
3. On February 21, 2023, MassHealth approved the appellant for LTC benefits with a PPA of \$1,381.27 per month beginning December 1, 2023. (Testimony; Ex. 1; Ex. 2; Ex. 14, pp. 2, 3).
4. The MassHealth representative calculated the PPA in accordance with 130 CMR 520.026. (Testimony; Ex. 14, pp. 4-5).
5. The appellant's monthly income was \$1,454.07 consisting of \$1,397.00 from Social Security and \$57.07 from a pension. (Testimony; Ex. 1, p. 2).
6. MassHealth subtracted the PNA of \$72.80 from that income. (Testimony; Ex. 1, p. 2; Ex. 14, pp. 4-5).
7. The appellant did not have any other applicable allowances. (Testimony; Ex. 1, p. 2; Ex. 2, p. 2).
8. The PPA was therefore \$1,381.27. (Testimony; Ex. 1, p. 2).
9. Effective January 1, 2024, the appellant's Social Security increased to \$1,442.00 due to the annual cost of living adjustment, resulting in a corresponding increase in the PPA to \$1,426.27 beginning January 1, 2024. (Testimony; Ex. 2, p. 2).
10. The appellant was discharged from the nursing facility on [REDACTED] 2024. (Testimony).

## Analysis and Conclusions of Law

An individual's gross earned and unearned income, less certain business expenses and standard income deductions, is referred to as the countable-income amount. (130 CMR 520.009(A)(1)). Unearned income includes social security benefits and pensions. (130 CMR 520.009(D)). For

institutionalized individuals, MassHealth applies specific deductions against the individual's countable-income amount to determine the patient paid amount. (130 CMR 520.009(A)(3)).

These deductions are described in 130 CMR 520.026 and are as follows. The Personal-needs Allowance (PNA) under MassHealth deducts \$72.80 for long-term-care residents, and if an individual's income does not meet this standard, MassHealth pays up to \$72.80 monthly; for SSI recipients, the PNA remains at \$72.80. (130 CMR 520.026(A)). The Spousal-Maintenance-Needs deduction ensures that a community spouse can maintain a minimum standard of living (MMMNA) if their income is insufficient, ending when the institutionalized spouse no longer requires care. (130 CMR 520.026(B)). Family-Maintenance Needs deduction provides support for family members living with the community spouse. (130 CMR 520.026(C)). The deductions for Maintenance of a Former Home is to assist those expected to return home within six months. (130 CMR 520.026(D)). Finally, the deduction for Health-care Coverage and Other Incurred Expenses cover health insurance, medical expenses not covered by MassHealth, and necessary guardianship fees. (130 CMR 520.026(E)). These 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. (130 CMR 520.026).

On December 1, 2023, the appellant's monthly countable income was \$1,397.00 in Social Security and \$57.07 from a pension, a total of \$1,454.07. MassHealth determined that with the exception of the PNA, none of the regulatory deductions were applicable to the appellant's income. For that reason, MassHealth subtracted \$72.80 from the appellant's monthly countable income of \$1,457.07 and determined that the appellant was required to pay a PPA of \$1,381.27 beginning December 1, 2023. On January 1, 2024, the appellant's Social Security increased to \$1,442.00. There were no other changes and therefore this resulted in a corresponding increase in the PPA to \$1,426.27 beginning January 1, 2024. The appellant's representative did not dispute these numbers or the method of MassHealth's calculation. MassHealth correctly determined the appellant's PPA.

For the above reasons, 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA  
02780s