

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2404940
<b>Decision Date:</b>	7/16/2024	<b>Hearing Date:</b>	05/24/2024
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Maria Boisvert (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/Income/Patient Paid Amount/Deductions
<b>Decision Date:</b>	7/16/2024	<b>Hearing Date:</b>	05/24/2024
<b>MassHealth's Rep.:</b>	Maria Boisvert	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<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 March 2, 2024, MassHealth informed the appellant that she was eligible for Long Term Care benefits and that starting on January 1, 2024, she would owe her nursing facility \$1,461.79 per month. (See 130 CMR 520.009; 520.026; and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on March 28, 2024. (See 130 CMR 610.015(B) and Ex. 2). MassHealth's calculation of the patient paid amount is valid grounds for appeal. (See 130 CMR 610.032).

Initially the appeal hearing was scheduled to take place on May 2, 2024. (Ex. 5). At the appellant's request and for good cause, the hearing was rescheduled to May 24, 2024. (Ex. 6; Ex. 7).

### Action Taken by MassHealth

MassHealth calculated that the appellant's Patient Paid Amount was \$1,461.79 beginning January 1, 2024.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in calculating the appellant's Patient Paid Amount.

## Summary of Evidence

An eligibility worker from the Taunton MassHealth Enrollment Center (the MassHealth representative) and the appellant both attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant is over the age of 65 years old and lives in a household of one. (Testimony; Ex. 3). The appellant has resided in the Long Term Care (LTC) facility since 2021. (Testimony). On March 2, 2024, MassHealth notified the appellant that effective January 1, 2024 she was approved for Long Term Care (LTC) services with a monthly patient paid amount (PPA) of \$1,461.79. (Testimony; Ex. 1; Ex. 8, pp. 2-3). MassHealth calculated the PPA in the following way. (Testimony). The appellant's gross monthly income is \$1,868.30 from Social Security. (Testimony; Ex. 1; Ex. 8, pp. 2-3). MassHealth then subtracted the \$72.80 Personal Needs Allowance (PNA) and \$333.71 of health insurance costs from the appellant's monthly income of \$1,868.30. (Testimony; Ex. 1; Ex. 8, pp. 2-3).

The MassHealth representative stated that the appellant's PPA would be changing again soon. (Testimony). On May 23, 2024, the appellant submitted a premium bill to MassHealth showing that the cost of one of her health insurance premiums would increase beginning in June. (Testimony; Ex. 9). The appellant's Social Security also had increased to \$1,935 per month. (Testimony). For that reason, the appellant's PPA will increase to \$1,507.99 beginning June 1, 2024, though MassHealth had not yet sent the appellant the notice concerning this change as of the date of the hearing. (Testimony). The MassHealth representative confirmed that none of the other deductions described in 130 CMR 520.026 were applicable to the appellant's income other than those that MassHealth had already applied. (Testimony).

The appellant stated the following. She sought to deduct costs related to a storage unit where her personal belongings are kept, arguing that it was akin to paying rent elsewhere. (Testimony). The appellant indicated that her niece was currently paying the monthly cost for this storage and that she should not have to do so. (Testimony). The appellant was informed that MassHealth permitted a limited number of deductions in order to determine the PPA and that these were listed at 130 CMR 520.026. After a review of the other deductions available in 130 CMR 520.026, the appellant confirmed that none of the other deductions were applicable in her case. (Testimony). The appellant also stated that she had concerns about the quality of care at the Long Term Care facility. (Testimony). The appellant was given the contact information for the Long Term Care ombudsman for her location.

## Findings of Fact

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

1. The appellant is over the age of 65 years old and lives in a household of one. (Testimony).
2. The appellant has resided in the Long Term Care facility since 2021. (Testimony).
3. On March 2, 2024, MassHealth notified the appellant that effective January 1, 2024 she was approved for LTC services with a monthly patient paid amount PPA of \$1,461.79. (Testimony; Ex. 1; Ex. 8, pp. 2-3).
4. MassHealth calculated the PPA in the following way. (Testimony).
  - a. The appellant's gross monthly income is \$1,868.30 from Social Security. (Testimony; Ex. 1; Ex. 8, pp. 2-3).
  - b. MassHealth then subtracted the \$72.80 PNA and \$333.71 representing the cost of the appellant's health insurance premiums from the appellant's income of \$1,868.30. (Testimony; Ex. 1; Ex. 8, pp. 2-3).
5. On May 23, 2024, the appellant submitted a premium bill for one of the sources of her health insurance costs, showing that her monthly premium would increase beginning in June 2024. (Testimony; Ex. 9).
6. The appellant's Social Security also has increased to \$1,935. (Testimony).
7. For that reason, the appellant's PPA will increase to \$1,507.99 beginning June 1, 2024, though MassHealth had not yet sent the appellant the notice concerning this change as of the date of the hearing. (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)). For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount. (130 CMR 520.009(A)(4)).

### 520.026: 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.

(A) Personal-needs Allowance.

- (1) The MassHealth agency deducts \$72.80 for a long-term-care resident's personal-needs allowance (PNA).
- (2) If an individual does not have income totaling the standard, the MassHealth agency will pay the individual an amount up to that standard on a monthly basis.
- (3) The PNA for SSI recipients is \$72.80.

(B) Spousal-maintenance-needs-deduction. If the community spouse's gross income is less than the amount he or she needs to live in the community (minimum-monthly-maintenance-needs allowance, MMMNA) as determined by the MassHealth agency, the MassHealth agency may deduct an amount from the institutionalized spouse's countable-income amount to meet this need...

(C) Deductions for Family-maintenance Needs.

- (1) The MassHealth agency allows a deduction from the income of a long-term-care resident to provide for the maintenance needs of the following family members if they live with the community spouse:
  - (a) a minor child - a child younger than 21 years old of either member of the couple;
  - (b) a dependent child - a child 21 years of age and older who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code;
  - (c) a dependent parent - a parent of either spouse who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code; and
  - (d) a dependent sibling - a brother or sister of either spouse (including a half-brother or half-sister) who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code...

(D) Deductions for Maintenance of a Former Home.

- (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...

(E) Deductions for Health-care Coverage and Other Incurred Expenses.

(1) Health-insurance Premiums or Membership Costs. The MassHealth agency allows a deduction for current health-insurance premiums or membership costs when payments are made directly to an insurer or a managed-care organization.

(2) Incurred Expenses.

(a) After the applicant is approved for MassHealth, the MassHealth agency will allow deductions for the applicant's necessary medical and remedial-care expenses. These expenses must not be payable by a third party. These expenses must be for medical or remedial-care services recognized under state law but not covered by MassHealth.

(b) These expenses must be within reasonable limits as established by the MassHealth agency. The MassHealth agency considers expenses to be within reasonable limits provided they are

1. not covered by the MassHealth per diem rate paid to the long-term-care facility; and
2. certified by a treating physician or other medical provider as being medically necessary.

(3) Guardianship Fees and Related Expenses...

A preponderance of the evidence supports MassHealth's calculation of the appellant's PPA. As of January 1, 2024, the appellant's monthly income was \$1,868.30 from Social Security. From this amount, MassHealth subtracted \$72.80, the PNA, as well as \$333.71, the cost of the appellant's health insurance premiums. None of the other deductions described in 130 CMR 520.026 are applicable in the appellant's circumstances. Although the appellant wished to deduct the monthly cost of her storage unit, this is not an expense that the regulations list as one that is deductible. The appellant has not demonstrated that MassHealth incorrectly calculated her 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  
02780