

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2405374
Decision Date:	6/14/2024	Hearing Date:	05/28/2024
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:



Appearance for MassHealth:

K'eisha McMullen, Springfield Intake Unit



*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 – PPA
Decision Date:	6/14/2024	Hearing Date:	05/28/2024
MassHealth's Rep.:	K'eisha McMullen	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

Through a notice dated 03/20/2024, MassHealth informed the appellant that he was eligible for MassHealth long term care (LTC) benefits beginning on 12/30/2023 with a patient paid amount (PPA) of \$1,417.35 per month, beginning on 12/01/2023 (Exhibit 1A). Through a second notice dated 05/03/2024¹, MassHealth informed the appellant that would change his PPA to \$2,672.02 on 01/01/2024 because of a change in his circumstances (130 CMR 520.025, 520.026; Exhibit 1B). A timely appeal was filed on the appellant's behalf by his health care proxy/daughter (130 CMR 610.015(B); Exhibit 2). Determination of the PPA is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for Long-Term Care (LTC) benefits with a benefit effective date of 12/30/2023. MassHealth established a PPA of \$1,417.35 effective 12/01/2023 and then

¹ The hearing officer asked the appellant's representative if she wanted the hearing officer to take jurisdiction over the 05/03/2024 notice, which addresses the appellant's PPA. She stated that she would like to address the MassHealth action in that notice. The MassHealth representative did not object and she provided the hearing officer with a copy of the 05/03/2024 notice (see Exhibit 5).

increased the PPA to \$2,672.02 effective 01/01/2024.

Issue

Was the appellant's PPA calculated correctly?

Summary of Evidence

The MassHealth representative testified that the appellant, a single man, applied for MassHealth long term care benefits on 12/07/2023. The facility is seeking payment by MassHealth on 12/30/2024². MassHealth received from the skilled nursing facility an SC-1 form with information that the appellant was admitted on [REDACTED]/2023 and his clinical eligibility was approved for a short-term nursing facility stay of “six months or less.” MassHealth also received from the facility a MassHealth Payment of Nursing Facility Services screening notice that states that the appellant was clinically eligible for MassHealth payment of nursing facility services on a short-term basis through 03/12/2024 (Exhibit 4).

The appellant was approved for MassHealth long-term-care (LTC) coverage with a benefit effective date of 12/30/2023, the date requested. MassHealth set a patient paid amount at \$1,417.35, based on the appellant’s monthly Social Security income of \$2,394.60 and pension of \$350.55 for a total income of \$2,745.15 minus a personal needs allowance of \$72.80 and minus a home maintenance deduction (HMND) of \$1,255.00. The MassHealth representative testified that the HMND is deducted from the appellant’s income in the PPA calculation because he has a home in the community, and he is expected to return there within 6 months of his admission. The HMND is capped at 100% of the federal poverty level (\$1,255.00 as of 03/2024).

MassHealth subsequently received a new SC-1 from a second skilled nursing facility. According to the new SC-1, the appellant was admitted to the second facility on [REDACTED]/2024, and the facility was seeking MassHealth benefits beginning on that date. On the SC-1, the appellant’s length of stay was checked off as “more than six months.” A nursing facility screening was also submitted indicating that the appellant is clinically eligible for services from the skilled nursing facility on a long-term basis. On 05/03/2024, MassHealth informed the appellant that his application for LTC benefits was approved for the date requested for the second skilled nursing facility stay. MassHealth set a patient paid amount at \$2,672.02, based on the appellant’s monthly Social Security income of \$2,394.60 and pension of \$350.22 for a total income of \$2,744.82 minus a personal needs allowance of \$72.80 (Exhibit 5). Because the appellant’s expected length of stay in the skilled nursing facility is more than six months, he is no longer eligible for a HMND

² The status change form (SC-1) submitted by the skilled nursing facility requests MassHealth benefits effective on 12/07/2023; however, it lists the Medicare benefit end date of 12/29/2023. The appellant did not contest the start date of the MassHealth benefits, 12/30/2023.

deduction from his income. The MassHealth representative concluded that no other deductions apply in this case.

The appellant's daughter/health care proxy appeared at the fair hearing and testified telephonically. She stated that she lives in the home that partly owned by the appellant. He has a life estate interest in the property. She testified that because he is "still the owner of the home, he is responsible for the bills." The daughter testified that she had to quit her job to care for the appellant and her "money is gone." She pays the tax bill, electric bill, gas bill out of her own income. She cannot afford to pay for the maintenance of the property. She stated that she was using some of the appellant's income for the bills; however, now that the PPA was increased, she has "nothing left" after the bills are paid.

Findings of Fact

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

1. The appellant, a single man, was admitted to the first skilled nursing facility on [REDACTED]/2023.
2. An application for long term care benefits was submitted on the appellant's behalf on 12/07/2023, seeking a benefit start date of 12/30/2023.
3. On 03/20/2023, MassHealth approved the appellant's long term care benefits with a benefit effective date of 12/30/2023, the date the facility was seeking.
4. On 03/20/2023, MassHealth calculated that the appellant would owe the facility a monthly patient paid amount (PPA) of \$1,417.35, effective on 12/01/2023.
5. The PPA was calculated using the appellant's income of \$2,745.15 (social security of \$2,394.60, plus his pension of \$350.55), then deducting a personal needs allowance (PNA) of \$72.80, and a home maintenance needs deduction (HMND) of \$1,255.00.
6. MassHealth received an SC-1 from a second nursing facility, showing that the appellant was admitted on [REDACTED]/2024. The second nursing facility was seeking a MassHealth benefit start date of 01/12/2024.
7. On the SC-1 from the second nursing facility, the appellant's expected length of stay was checked off as "more than six months."
8. MassHealth received a clinical screening for MassHealth payment of nursing facility services that was conducted by HESCOO Elder Services dated 01/12/2024. It concluded that the appellant was clinically eligible for MassHealth payment of nursing facility services because

nursing facility services are medically necessary as required by MassHealth regulations. This is considered a long-term assessment.

9. On 05/03/2024, MassHealth informed the appellant that his application for LTC benefits was approved for the date requested.
10. MassHealth calculated a patient paid amount at \$2,672.02, based on the appellant's monthly Social Security income of \$2,394.60 and pension of \$350.22 for a total income of \$2,744.82 minus a personal needs allowance of \$72.80.
11. The appellant did not contest the income MassHealth has on file.
12. 100% of the federal poverty rate for a household of one is \$1,255.00 (03/2024).

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 520.009 address countable income amount for institutionalized individuals. There was no dispute among the parties that the appellant's income from Social Security is \$2,394.60 and from his pension is \$350.22. His total countable income is \$2,744.82.

When an applicant is admitted to the skilled nursing facility, MassHealth calculates a patient paid amount. MassHealth regulations at 130 CMR 520.0026 address long term care general income deductions as follows:

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.

Regulations at 130 CMR 520.026(D) address deductions for maintenance of a former home as follows:

- (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.
- (2) The amount deducted is the 100 percent federal-poverty-level income standard for one person.

(Emphasis added.)

The first issue is whether MassHealth correctly calculated the appellant's PPA when he was first approved for MassHealth benefits following his admission to the first skilled nursing facility. The appellant's income is \$2,744.82. MassHealth deducted from the appellant's income a personal needs allowance (PNA) of \$72.80 and a home maintenance needs deduction (HMND) of \$1,255.00. Based on the SC-1 submitted by the facility, which shows that his expected length of stay is "less than six months," the appellant is entitled to the HMND, which is equal to 100% of the federal poverty level for a household of one person (\$1,255.00 as of 03/2024). The appellant has identified no other deductions to which the appellant would qualify. Accordingly, MassHealth correctly determined that the appellant's PPA at the first skilled nursing facility is \$1,417.35.

The above regulation provides that 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, MassHealth will allow a home maintenance needs deduction equal to 100% of the federal poverty level. Based on the SC-1 and the assessment for MassHealth payment of first nursing facility, both signed by competent medical authority, MassHealth correctly determined that the appellant was eligible for the HMND. His PPA was calculated to be \$1,416.35 (Income of \$2,745.15 – PNA of \$72.80 – HMND of \$1,255.00), effective on 12/01/2023. This portion of the appeal is therefore denied.

The second issue is whether MassHealth correctly increased the PPA when the appellant was admitted to the second skilled nursing facility. MassHealth subsequently received an SC-1 and a clinical screening notice, showing that the appellant was admitted to a second skilled nursing facility on [REDACTED]/2024. On 05/03/2024, MassHealth notified the appellant that his PPA would increase to \$2,672.02, because he was no longer eligible for the HMND. MassHealth based its action on an SC-1 that was received from a second facility, to which the appellant was admitted on [REDACTED]/2024. According to the information on the SC-1, the appellant's expected length of stay at the second skilled nursing facility was "more than six months." A clinical screening submitted to MassHealth confirmed that the appellant was determined to be clinically eligible for nursing home level of care on a long-term basis. MassHealth approved benefits for the date requested by the facility.

Since the SC-1 indicated that the appellant's expected length of stay was "more than six months," which was confirmed by competent medical authority on the clinical nursing home screening, MassHealth recalculated the PPA, removing the HMND. The new PPA was calculated to be \$2,672.02 (Income of \$2,744.82 – PNA of \$72.80). MassHealth properly applied the above regulation and removed the HMND because the appellant was not expected to return to his home in the community within six months. Accordingly, MassHealth's calculation of the PPA after the appellant's admission to the second skilled nursing facility is supported by the relevant

facts in the hearing record, as well as the above regulations. The appellant has not identified any other deduction that would apply. Therefore, this 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: Appellant Representative: [REDACTED]

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