

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407247
Decision Date:	8/12/2024	Hearing Date:	06/20/2024
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:



Appearance for MassHealth:

Via telephone
Kelly Sousa – Taunton 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:	8/12/2024	Hearing Date:	06/20/2024
MassHealth's Rep.:	Kelly Sousa	Appellant's Rep.:	Sibling
Hearing Location:	Taunton MassHealth Enrollment Center Room 2 (Remote)	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

By a notice dated April 22, 2024, MassHealth notified the appellant that his patient paid amount (PPA) would change from \$1,500.06 to \$2,755.06, beginning May 1, 2024 (Exhibit 1). The appellant filed a timely appeal on or about May 14, 2024 (130 CMR 610.015; Exhibit 2). The Board of Hearings (BOH) dismissed the appeal for failure to submit written authorization from MassHealth member or applicant; BOH subsequently vacated the dismissal after receiving a copy of written authorization (Exhibits 3-6, 9). A challenge to a PPA is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that his PPA would change from \$1,500.06 to \$2,755.06 beginning May 1, 2024.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant's PPA owed to the nursing facility is \$2,755.06 per month, beginning May 1, 2024.

Summary of Evidence

The appellant was represented telephonically at the hearing by his conservator. A MassHealth representative appeared at the hearing telephonically and testified as follows: The appellant, who is over the age of [REDACTED] has been a resident of a nursing facility since [REDACTED]. On or about April 1, 2024, MassHealth received the appellant's renewal application and additional documentation and verified his monthly income as follows: a pension in the amount of \$2,734.86, and Social Security benefit in the amount of \$93.00, totaling \$2,827.86 (Exhibit 1, p. 2). MassHealth deducted the appellant's personal needs allowance (PNA) of \$72.80 and arrived at a PPA of \$2,755.06. *Id.* The MassHealth representative explained that this is the amount that the appellant owes to the nursing facility each month.

The MassHealth representative explained that the reason for this change (from \$1,500.06 to \$2,755.06) is because the appellant's previous PPA was calculated during the Public Health Emergency (PHE) when COVID protections were implemented. During the PHE, all MassHealth members current benefits were protected and PPA amounts could not be changed. When the PHE ended and COVID protections were lifted, MassHealth members were sent renewal applications to ensure that they still qualified for the benefits that were being protected during the PHE. Here, MassHealth received the appellant's renewal application and determined that his PPA was changing from \$1,500.06 to \$2,755.06, beginning on May 1, 2024. The appellant was notified of this change on April 22, 2024 (Exhibit 1).

Additionally, the MassHealth representative stated that she received further documentation from the appellant's representative regarding his personal expenses (Exhibit 8). They include: [REDACTED] with a monthly premium of \$1.27, a monthly premium of \$88.67 for a Supplemental Medicare Health Insurance Plan, and \$96.00 per month for pre-established payments for student loans, transportation costs amounting of \$125.00 for caregiver support, mail costs, and conservatorship fees. The MassHealth representative explained that MassHealth does not pay for life insurance premiums, nor does it pay for student loans. As for transportation costs, the MassHealth representative explained that the appellant receives long-term care services and retains MassHealth Standard coverage. As such, his benefits cover transportation. She suggested that the appellant's representative contact the facility's business office manager (BOM) to ensure that the appellant's PT-1 (otherwise known as Patient-Transportation 1) is in place. She explained that the appellant's doctors would need to complete the PT-1 forms, if they have not already done so.

With respect to the Supplemental Medicare Health Insurance Plan monthly premiums, the

MassHealth representative explained that she did not receive a current statement indicating that the appellant pays \$88.67 per month. She stated that she received a written notation from the appellant's representative indicating that the appellant pays this amount, however, MassHealth would need a copy of the current statement to deduct this amount from the appellant's PPA. The MassHealth representative stated that the appellant's representative can submit a written statement to MassHealth. Once received, that amount (\$88.67) would be deducted from the PPA. She noted that the appellant receives MassHealth Standard and Medicare benefits, however. Therefore, he does not need a supplemental health plan.

As to conservatorship fees, the MassHealth representative explained that to date, there were not any fees assigned by the Court. She stated that the appellant's representative can opt to go to Probate Court and request permission to obtain fees as the appellant's conservator. Once she receives a Court Order, the appellant's conservator can send a copy to MassHealth for implementation thereof. Finally, the MassHealth representative testified that appellant's mail costs would need to be deducted from his personal needs allowance (PNA) of \$72.80.

The appellant's representative testified that, upon obtaining conservatorship for her brother, the appellant, her attorney failed to inform her that she could obtain fees for her duties thereof. She stated that she was looking into that option, now that she has been made aware of it. With respect to transportation, the appellant's representative stated that the facility never informed her of the PT-1 form. She explained that currently, she transports the appellant to his medical appointments. Additionally, she has been paying an agreed-upon amount of \$125.00 for alternative transportation for the appellant when she is not available. She stated that she can provide evidence to MassHealth of these transportation costs. The appellant's representative explained that she will contact the facility's BOM now that she has been made aware of the PT-1.

As to the appellant's PNA, the appellant's representative testified that \$72.80 per month does not keep up with inflation. Moreover, the appellant's PNA does not cover his nutritional costs, nor does it cover the costs of purchasing new clothing because he is malnourished. Currently, the appellant is seeing a dietician and nutritionist. The appellant's representative stated that the appellant's mail costs include care packages that she mails to him, which his PNA does not cover. Further, his PNA does not cover mailing costs incurred by his representative when she needs to submit verification of her conservatorship. She explained that she does not have the luxury of e-mailing or scanning requested verification.

As to his supplemental health insurance costs, the appellant's representative explained that she does not understand the MassHealth program in its entirety. She feared that if the appellant was not signed up for supplemental insurance during open enrollment, that he would miss that opportunity. The appellant's representative explained that she did not want her brother to miss that opportunity as she was going through her learning curve. She expressed her satisfaction upon learning that MassHealth does cover all his medical expenses. The appellant's representative stated that she recently received an invoice for the appellant's supplemental insurance and will

send a copy to MassHealth.

Finally, as to the appellant's student loan amounts, his representative explained that the appellant suffers from dementia, and did not pay his student loans for a certain time period. She felt obligated to pay the appellant's student loans so that he was no longer in default. The appellant's representative asked MassHealth to consider these costs. She explained that she would need approximately 3 months to ascertain whether the remaining of his loans can be forgiven by the Department of Education. To this extent, the appellant's representative submitted a loan forgiveness application to the Department of Education, on her brother's behalf.

Findings of Fact

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

1. The appellant is over the age of [REDACTED] and a MassHealth recipient of long-term care services.
2. The appellant has resided in a nursing facility since [REDACTED]
3. At that time, MassHealth calculated the appellant's PPA in the amount of \$1,500.06.
4. MassHealth received the appellant's renewal application and additional documentation in April of 2024.
5. MassHealth verified the appellant's monthly income includes a \$93 Social Security benefit and a \$2,734.86 in pension, totaling \$2,827.86.
6. After deducting the appellant's PNA of \$72.80, MassHealth calculated the appellant's PPA of \$2,755.06.
7. MassHealth notified the appellant on April 22, 2024 that his PPA was changing from \$1,500.06 to \$2,755.06 beginning May 1, 2024.
8. The appellant has additional expenses surrounding [REDACTED] health insurance, student loans, transportation costs, mail costs, and conservatorship fees.
9. MassHealth does deduct from the PPA expenses for life insurance premiums, student loan costs, or mailing costs.
10. MassHealth does pay for health insurance and conservatorship fees, upon receipt of the proper documentation.

11. MassHealth also cover transportation costs, when the PT-1 forms are in place, but they are not permitted deductions from the PPA.

13. The appellant timely appealed this MassHealth action.

Analysis and Conclusions of Law

The issue in this appeal is whether MassHealth correctly calculated the appellant's PPA beginning May 1, 2024. The PPA is 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 (See, 130 CMR 515.001).

Pursuant to 130 CMR 520.026, 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).

In the present case, the appellant's total monthly income is \$2,827.86 (Testimony; Exhibit 1, p. 2). There is evidence that the appellant is entitled to a spousal maintenance allowance, dependent family member needs allowance or home maintenance allowance. In calculating the PPA, MassHealth deducted \$72.80 per month for the appellant's PNA, pursuant to regulation. I find this determination was correct. While I note the additional testimony given by the appellant's representative's regarding additional expenses of life insurance, student loans, and mail costs, unfortunately, the regulations that govern do not factor in these expenses in calculating the appellant's PPA. With respect to expenses that the MassHealth regulations do allow, here, supplemental health insurance and conservatorship fees, the appellant's representative can opt to submit the pertinent documentation for MassHealth to factor into the appellant's PPA. Further, the appellant's benefits cover transportation costs once the PT-1 is filled out and submitted. Thus, I find that MassHealth did not err in its determination of the appellant's PPA beginning May 1, 2024. On this record, this appeal is denied.¹

Order for MassHealth

None.

¹ This denial does not preclude the appellant or his representative from submitting additional evidence to MassHealth regarding allowable deductions, namely, other health insurance premiums and conservatorship fees, as discussed at the 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

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616