

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407817
Decision Date:	8/16/2024	Hearing Date:	6/14/2024
Hearing Officer:	Cynthia Kopka	Record Open to:	7/22/2024

Appearances for Appellant:




Appearance for MassHealth:
Kathleen Towle, Springfield



*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 eligibility, PPA
Decision Date:	8/16/2024	Hearing Date:	6/14/2024
MassHealth's Rep.:	Kathleen Towle	Appellant's Reps.:	
Hearing Location:	Taunton (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 notice dated March 28, 2024, MassHealth approved Appellant for long term care benefits beginning September 1, 2023 with a patient paid amount (PPA) of \$1,584.27. On April 19, 2024, Appellant's PPA changed from \$2,835.27 to \$2,879.77 beginning May 1, 2024. Exhibit 1. Appellant filed this appeal in a timely manner on April 18, 2024. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through June 28, 2024 and extended through July 22, 2024 for Appellant to submit additional information. Exhibit 5.

Action Taken by MassHealth

MassHealth approved Appellant for long term care benefits beginning September 1, 2023 with a PPA of \$1,584.27.

Issue

The appeal issue is whether Appellant is entitled to waiver of the PPA.

Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant applied for MassHealth long term care benefits on November 14, 2023 and MassHealth issued an information request on November 27, 2023. On March 7, 2024, MassHealth denied the application for missing verifications and Appellant appealed. On March 28, 2024, MassHealth approved Appellant's application beginning September 6, 2023 with a patient paid amount (PPA) of \$1,584.27. Exhibit 1. The calculation included a \$1,215.00 home maintenance allowance deduction. *Id.* at 2. On April 19, 2024, Appellant's PPA changed from \$2,835.27 to \$2,879.77 beginning May 1, 2024 without a home maintenance allowance. *Id.* at 3-4.

Appellant's representative appeared by phone and submitted records in support of appellant's argument. Exhibit 2. Appellant does not dispute the start date or PPA calculation, but argued that Appellant is unable to pay the PPA because she has been exploited financially. Appellant and representatives from the nursing facility were unable to access Appellant's financial information for several months, despite multiple efforts to get information from [REDACTED]. Appellant is of sound mind and yet [REDACTED] would not allow her access to her accounts. It was only when Appellant finally successfully accessed her account that she learned of the financial exploitation. Appellant's representative alleged that an individual has forged Appellant's signature on pension checks and used Appellant's credit and debit cards. Appellant's representative argued that Appellant filed a police report and a complaint with the local Elder Services. On March 22, 2024, Appellant received a determination from Elder Services finding Appellant's complaint was substantiated and open for services. Exhibit 2 at 10.

Appellant's representative argued that Appellant was admitted on [REDACTED], 2023 for a short term stay, expecting to stay at the nursing facility for six months or less. Appellant believed her rent, utilities, and other bills were being maintained as allowed by MassHealth so she could return to the community. Appellant provided evidence of the short-term screen and SC-1. Exhibit 2 at 5-6. Appellant was screened eligible for short term care through February 19, 2024 and for long term care as of February 19, 2024. *Id.* at 6-9. Appellant's representative testified that Appellant now has access to her social security and pension, but cannot pay the PPA from previous months until she is able to recoup the money that was stolen.

The MassHealth representative testified that she could refer the matter to MassHealth's policy unit, but would need to see a copy of the police report. Exhibit 4 at 1. MassHealth would also need to know what has been done to get the money back, and for which specific months Appellant seeks relief of the PPA. Appellant's representative testified that she would be able to provide specifics as to when Appellant is able to pay the PPA, as well as the filed police report and a case status of Elder Services.

The hearing record was held open through June 21, 2024 to allow Appellant to submit a copy of the filed police report, letter from Elder Services providing a status of the investigation, and specific dates for which Appellant seeks relief of the PPA. Exhibit 5. The deadline was extended

through July 8, 2024 at Appellant's request. *Id.* As of the decision date, Appellant had not submitted any additional documents.

Findings of Fact

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

1. Appellant admitted to the nursing facility on [REDACTED], 2023 for a short term stay.
2. On November 14, 2024, MassHealth received Appellant's application for long term care benefits seeking coverage beginning September 6, 2024.
3. On March 28, 2024, MassHealth approved Appellant's application beginning September 6, 2023 with a patient paid amount (PPA) of \$1,584.27. The calculation included \$1,215.00 home maintenance allowance. Exhibit 1.
4. In 2023, the monthly federal poverty level (FPL) for a household of one was \$1,215.
5. On April 19, 2024, Appellant's PPA changed from \$2,835.27 to \$2,879.77 beginning May 1, 2024 without a home maintenance allowance. *Id.* at 3-4.
6. Appellant filed a timely appeal on April 18, 2024. Exhibit 2.
7. On March 22, 2024, Appellant received a determination from Elder Services finding Appellant's complaint of financial exploitation was substantiated and open for services. *Id.* at 10.
8. The hearing record was held open and extended through July 8, 2024 to allow Appellant to submit a copy of the filed police report, a letter from Elder Services describing the status of the investigation, and specific dates for which relief was sought. Exhibit 5.
9. Appellant has not submitted the requested information.

Analysis and Conclusions of Law

Appellant seeks relief from MassHealth's calculation of the PPA, arguing that Appellant is not able to pay several months of her PPA due to financial exploitation.

In calculating the PPA, the regulations allow certain deductions to be made from an institutionalized member's income. 130 CMR 520.009. These deductions are listed at 130 CMR 520.026, which states that "[g]eneral 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.” The personal-needs allowance, \$72.80 per month, is set by regulation. 130 CMR 520.025.

Regarding the deduction for maintenance of a former home,

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

130 CMR 520.026(D).

Here, MassHealth allowed a home maintenance allowance of \$1,215 to be deducted from Appellant’s income at least through March 2024, which was six months after Appellant’s admission. There was no disputed error in MassHealth’s calculation.

MassHealth’s regulations allow requests for waiver of certain expenses and penalties due to undue hardship. *See, e.g.,* 130 CMR 520.026(E)(3)(f) (increased deduction for guardianship fees); 130 CMR 520.007(G)(11) (excluding property from countable assets for undue hardship). The specific circumstance for which Appellant seeks relief is not contained in the regulations. Moreover, Appellant has not specified what exact relief is needed, as Appellant did not provide the requested information during the record open deadline. As Appellant has not met her burden of establishing what relief she seeks or the basis for such relief under the regulations, 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

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