

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2408500
Decision Date:	12/19/2024	Hearing Date:	October 24, 2024
Hearing Officer:	Brook Padgett	Record Open:	December 10, 2024

Appellant Representatives:



MassHealth Representative:

Kathleen Towle, Springfield MEC



***Commonwealth of Massachusetts
Executive Office of Health and Human Services
Division of Medical Assistance
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171***

APPEAL DECISION

Appeal Decision:	Denied	Issue:	130 CMR 520.026; Eligibility; Long-term care
		Hearing Date:	October 24, 2024
MassHealth Rep.:	K. Towle, Springfield	Appellant Reps.:	[REDACTED]
Hearing Location:	Springfield		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The appellant received a notice dated April 22, 2024 stating: MassHealth has decided you are eligible for MassHealth Standard benefits to cover your care in a nursing facility. Your eligibility begins on November 16, 2023. Starting November 01, 2023, you will owe the Nursing Facility \$2,469.07 every month to help pay for your care. Your facility will bill you \$2,469.07 every month. This is called your "Patient Paid Amount." (Exhibit 1). The appellant filed this appeal timely on May 29, 2024. (130 CMR 610.015(B); Exhibit 2).¹ Determination of the PPA is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth calculated the appellant's PPA to be \$2,469.07.

¹ The appellant died on [REDACTED] the community spouse was made personal representative on September 06, 2024.

Issue

Was the appellant's PPA correctly calculated?

Summary of Evidence

MassHealth testified that appellant was admitted to the nursing facility on [REDACTED]. The appellant applied for MassHealth on January 26, 2024 and was approved for long-term-care (LTC) coverage on April 22, 2024 with the requested start date of November 16, 2023 and a patient paid amount (PPA) of \$2,469.07. MassHealth testified the PPA amount was calculated using the appellant's income of \$2,839.29 (\$675.20 Social Security + \$2,100.09 pension + \$64.00 pension), which after a deduction of the appellant's Personal Needs Allowance (PNA) of \$72.80 and health insurance of \$297.42 resulted in a PPA of \$2,469.07 per month. MassHealth stated the community spouse has monthly income of \$4,337.75 (Working income \$1,062.00 + \$3,272.75 pension) and the appellant had no other deductions available to reduce the PPA. MassHealth submitted into evidence the PPA calculation. (Exhibit 4).

The appellant's representative and the community spouse responded that the community spouse is requesting more of the appellant's income to meet her need and so she can stay in the family home. The community spouse stated she received a bill for \$19,752.56 from the facility and argued she has monthly bills that need to be paid: mortgage (\$1,118.90), electric (\$67.78+/-), sewer (\$35.00), cable (\$194.48) as well as additional medical expenses (\$406.10) and medication (\$119.64).

MassHealth responded that the community spouse can keep all the appellant's income since his death, however the appellant is still responsible for the PPA beginning November 2023. During the time the appellant was in the nursing facility the community spouse's income was higher than the appellant's income and her household expenses and so she was ineligible for a spousal maintenance needs allowance (SMNA) deduction.

The appellant argued she wants her household expenses considered when determining the PPA. MassHealth responded that the expenses were considered and she does not meet the criteria for any further deductions.

At the appellant's request the record remained open until November 25, 2024 to submit verification of any additional household expenses to be considered and December 10, 2024 for MassHealth to respond to any additional submission. (Exhibit 5).

The appellant failed to submit any additional expenses prior to the close of the record open period.

Findings of Fact

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

1. The appellant was in a nursing facility from [REDACTED] (Testimony and Exhibit 4).
2. The appellant applied for MassHealth on January 26, 2024. (Testimony and Exhibit 4).
3. The appellant was approved for long-term-care coverage on April 22, 2024 with a start date of November 16, 2023 and a PPA of \$2,469.07. (Exhibit 1).
4. At the time of the PPA calculation the appellant had monthly income of \$2,839.29 (\$675.20 Social Security + \$2,100.09 pension + \$64.00 pension). (Testimony and Exhibit 4).
5. MassHealth deducted from the appellant's income of \$2,839.29 the appellant's PNA of \$72.80 and his health insurance payment of \$297.42 to determine the appellant's PPA of \$2,469.07. (Testimony and Exhibit 4).
6. At the time of the PPA calculation the community spouse had monthly income of \$4,337.75 (working income \$1,062.00 + \$3,272.75 pension) and monthly expenses totaling \$1,941.90: mortgage (\$1,118.90), electric (\$67.78 +/-), sewer (\$35.00), cable (\$194.48), medical expenses (\$406.10) and medication (\$119.64). (Testimony).

Analysis and Conclusions of Law

Once an individual has been determined a long-term-care facility resident MassHealth will establish a PPA which is the amount that a member in a long-term care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts. The PPA is calculated by deducting certain costs listed at 130 CMR 520.026 from the member's monthly countable income. The MassHealth regulations allow the following deductions to be made from the PPA.

130 CMR 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).

(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. This amount is the spousal-maintenance-needs deduction. 130 CMR 520.026(B) applies to the first month of eligibility in an institution and terminates the first full calendar month in which the spouse is no longer in an institution or no longer has a spouse in the community. This deduction is the amount by which the MMMNA allowance exceeds the community spouse's gross income.

- (1) The MassHealth agency determines the MMMNA by adding the following amounts:
 - (a) \$2,465.00 (the federal standard maintenance allowance); and
 - (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$739.50 and the shelter expenses for the community spouse's principal residence, including
 1. the actual expenses for rent, mortgage (including interest and principal), property taxes and insurance, and any required maintenance charge for a condominium or cooperative; and
 2. the applicable standard deduction under the Supplemental Nutrition Assistance Program for utility expenses. If heat is included in the rent or condominium fee, this amount is \$520.00. If heat is not included in the rent or condominium fee, this amount is \$852.00
- (2) The maximum-monthly-maintenance-needs allowance is \$3,696.40 per month, unless it has been increased as the result of a fair-hearing decision based on exceptional circumstances in accordance with 130 CMR 520.017(D).
- (3) If the institutionalized individual is subject to a court order for the support of the community spouse, the court-ordered amount of support must be used as the spousal maintenance needs deduction when it exceeds the spousal-maintenance-needs deduction calculated according to 130 CMR 520.026(B) or resulting from a fair hearing.

(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 ■ years old of either member of the couple;
 - (b) a dependent child - a child ■ 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.

The record establishes the appellant, who is now deceased, was a long-term care recipient from [REDACTED]. During that time the appellant had gross monthly income of \$2,839.29. MassHealth, as required by the regulations, deducted from the appellant's income his PNA of \$72.80 (130 CMR 520.026(A)) along with his health insurance premium of \$297.42 (130 CMR 520.026(E)) to calculate his PPA of \$2,469.07.

The community spouse at the time of the calculation had monthly gross income of \$4,337.75. If the community spouse's gross income is less than the amount needed to live in the community, MassHealth may deduct an amount from the appellant's income to meet the community spouse's

needs. This amount is the spousal-maintenance-needs allowance (SMNA) deduction (130 CMR 520.026(B)). This deduction is the amount by which the minimum-monthly-maintenance-needs (MMMNA) allowance exceeds the community spouse's gross income. In this instance the community spouse's monthly gross income (\$4,337.75) exceeds the maximum MMMNA as allowed by regulation (\$3,696.40), so the appellant was ineligible for a SMNA reduction in his PPA.²

The appellant had no minor children or dependent child, parent or sibling living in the home therefore the appellant was ineligible for a family-maintenance deduction. (130 CMR 520.026(C)).

MassHealth allows a deduction for maintenance of a home (130 CMR 520.026(D)) when a competent medical authority certifies in writing that the individual is likely to return home within six months after the month of admission. There was no evidence presented that the appellant intended to return home during the period [REDACTED] therefore he was ineligible for a reduction in the PPA for maintenance of a home.

Based on the evidence contained in the record MassHealth properly calculated the appellant's PPA for the period [REDACTED] and this appeal is DENIED.

² A further deduction may be obtained if the community spouse can demonstrate exceptional circumstances in accordance with 130 CMR 520.017(D). The regulation states exceptional circumstances exist when there are circumstances other than those already taken into account in establishing the maintenance standards for the community spouse under 130 CMR 520.026(B) and these circumstances result in significant financial duress. Since the federal standards used in calculating the MMMNA cover such necessities as food, shelter, clothing, and utilities, exceptional circumstances are limited to those necessities that arise from the medical condition, frailty, or similar special needs of the community spouse. Such necessities include, but are not limited to, special remedial and support services and extraordinary uncovered medical expenses. Such expenses generally do not include car payments, even if the car is used for transportation to medical appointments, or home-maintenance expenses such as security systems and lawn care. The community spouse submitted no evidence of circumstances other than those already taken into account nor did she provide evidence which demonstrates significant financial duress.

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.

Brook A. Padgett
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Taunton MEC
