

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2411991
Decision Date:	12/2/2024	Hearing Date:	10/04/2024
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Patricia Lemke



*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:	Eligibility – Long Term Care
Decision Date:	12/2/2024	Hearing Date:	10/04/2024
MassHealth's Rep.:	Patricia Lemke	Appellant's Rep.:	Daughter
Hearing Location:	Springfield MEC		

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 July 25, 2024, MassHealth denied Appellant's application for MassHealth Home and Community Based Waiver Services on the grounds that Appellant asked for the benefits to stop (Exhibit A). Appellant filed this appeal in a timely manner on August 5, 2024 (see 130 CMR 610.015(B) and Exhibit A). Denial of assistance constitutes valid grounds for appeal (see 130 CMR 610.032). While the hearing was pending, Appellant's representative filed documentation which included copies of three other notices (notice numbers 67258195, 6728199, and 67258203 concerning Patient Paid Amount (PPA) determinations)(Exhibit C). PPA determinations also constitute valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth Home and Community Based Waiver Services and made three PPA determinations.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied Appellant's application for MassHealth Home and Community Based Waiver Services and made three PPA determinations.

Summary of Evidence

The MassHealth representative testified that Appellant filed an application for MassHealth Long Term Care (LTC) benefits on July 18, 2024 seeking a start date of February 4, 2024, the date that her community benefits terminated.

The MassHealth representative testified that the LTC application was processed on July 25, 2024. As a result of filing the LTC application, MassHealth issued notice number 67172018 informing Appellant that she was not eligible for the Frail Elder Waiver services because she asked for her benefits to stop.

In August 2024, the Masshealth representative spoke with Appellant's daughter regarding this notice informing her that the Frail Elder Waiver (FEW) coverage that Appellant had been receiving in the community needed to end in order to start the LTC benefits. When FEW terminated MassHealth systems issued notice number 67172018.

Appellant was approved for LTC benefits with the requested start date and was assessed a monthly Patient Paid Amount (PPA) under notice number 67255820. Because of changes in income and or the application of certain deductions (explained below) that occurred after the start date of February 4, 2024, changes were made to the PPA. These changed were explained in notices 67258195, 6728199, and 67258203.

Appellant's daughter wrote to the MassHealth representative seeking clarification and asserting that Appellant shouldn't have any PPA. In her letter, the daughter referenced the nursing home screens from Elder Services (ASAP) claiming the screens were "Respite Vouchers" from the ASAP (Exhibit B, page 3, letter from daughter dated August 22, 2024).

The Masshealth representative explained that the screens are not vouchers for respite, but the clinical eligibility notices which inform MassHealth that an applicant is clinically (as opposed to financially) eligible for nursing home services. The dates on the screens also let MassHealth know if the applicant is approved for a short term stay or is considered long term. The MassHealth representative further explained that if an applicant is screened "short term" then she is entitled to

an allowance to maintain her home in the community for a maximum of six months plus the month of application. This amount is deducted from the monthly PPA.

The MassHealth representative testified that Appellant was screened as short term from November 9, 2023 to May 9, 2024. Another short term period was determined for May 8, 2024 to August 9, 2024. Appellant received the corresponding home maintenance deductions which were subtracted from her PPA as reflected in notices 67258195, 6728199, and 67258203.

The MassHealth representative summarized that Appellant has had monthly PPAs due since February 2024. The Home Maintenance Deduction was applied through May 2024 (when the last short-term period ended). As of June 2024, Appellant was deemed “long-term” and her PPA increased due to the end of the home maintenance deduction. There has never been a respite voucher and Appellant has been responsible for paying each of her monthly PPAs since February 2024.

Appellant was represented by her daughter who spent all of her time asking the MassHealth representative to re-explain what the representative had already explained with her testimony. Eventually, the hearing officer asked Appellant what it was she was actually appealing. The daughter became defensive and asked that she not be pressured or badgered. The hearing officer then explained that the daughter had been speaking for 35 minutes and had yet to claim that MassHealth had made an error of fact or law and had yet to state what it was she was appealing. The daughter became more agitated and argumentative accusing the hearing officer of being dismissive and “badgering” her. The daughter repeatedly refused to answer the hearing officer’s question as to what she was appealing or what, if any, MassHealth action she disagreed with. Instead, the daughter abruptly hung up the phone at which point the hearing ended.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant filed an application for Masshealth Long term Care (LTC) benefits on July 18, 2024 seeking a start date of February 4, 2024, the date that her community benefits terminated.
2. The LTC application was processed on July 25, 2024.
3. As a result of filing the LTC application MassHealth issued notice number 67172018 (Exhibit A) informing Appellant that she was not eligible for the Frail Elder Waiver services because she asked for her benefits to stop.
4. In August 2024, the Masshealth representative spoke with Appellant's daughter regarding notice 67172018 informing her that the Frail Elder Waiver (FEW) coverage that Appellant had been receiving in the community needed to end in order to start the Long Term Care benefits. When FEW terminated, MassHealth systems issued notice number 67172018.
5. Appellant was approved for LTC benefits with the requested start date and was assessed a monthly Patient Paid Amount (PPA) under notice number 67255820.
6. Because of changes in income and or the application of certain deductions that occurred after the start date of February 4, 2024, changes were made to the PPA.
7. PPA changes effective after February 4, 2024 were explained in notices 67258195, 6728199, and 67258203.
8. Appellant's daughter wrote to the MassHealth representative seeking clarification and asserting that Appellant shouldn't have any PPA.
9. In her letter, the daughter referenced the nursing home screens from Elder Services (ASAP) claiming the screens were "Respite Vouchers" from the ASAP (Exhibit B, page 3, letter from daughter dated August 22, 2024).
10. Screens are not vouchers for respite, but the clinical eligibility notices which inform MassHealth that an applicant is clinically (as opposed to financially) eligible for nursing home services.

11. Dates on the screen let MassHealth know if the applicant is approved for a short term stay or is considered long term.
12. If an applicant is screened “short term” then she is entitled to an allowance to maintain her home in the community for a maximum of six months plus the month of application; this amount is deducted from the monthly PPA.
13. Appellant was screened as short term from November 9, 2023 to May 9, 2024 and a second short term period was determined for May 8, 2024 to August 9, 2024.
14. Appellant received the corresponding home maintenance deductions which were subtracted from her PPA as reflected in notices 67258195, 6728199, and 67258203.
15. Appellant has had monthly PPAs due since February 2024.
16. The Home Maintenance Deduction was applied through May 2024 (when the last short-term period ended).
17. As of June 2024, Appellant was deemed “long-term” and her PPA increased due to the end of the home maintenance deduction.
18. There has never been a respite voucher and Appellant has been responsible for paying each of her monthly PPAs since February 2024.

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision’s invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)). Appellant has not met her burden.

At the hearing, Appellant’s representative asked many questions seeking clarification from the worker about the processing of Appellant’s LTC application and the PPA determinations. The daughter never disputed any MassHealth action. Factually, the daughter was incorrect in asserting that the nursing home screens were “respite vouchers” as indicated in her August 2024 letter. During the hearing, the daughter refused to answer the hearing officer when he questioned her multiple times as to what it was that Appellant was appealing.

On this record there is no basis in fact or law to disturb the reviewed MassHealth actions. Accordingly, 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

[REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186