

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2412230
Decision Date:	12/3/2024	Hearing Date:	09/05/2024
Hearing Officer:	Mariah Burns	Record Open to:	11/18/2024

Appearance for Appellant:



Appearance for MassHealth:

Douglas Thompson, Charlestown MassHealth
Enrollment Center



*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:	Approved	Issue:	Over 65; Eligibility; Long-Term Care; Income; Deductible
Decision Date:	12/3/2024	Hearing Date:	09/05/2024
MassHealth's Rep.:	Douglas Thompson	Appellant's Rep.:	
Hearing Location:	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

Through a notice dated August 1, 2024, MassHealth denied the appellant's application for MassHealth long-term care benefits because MassHealth determined that the appellant exceeds the income limit for MassHealth Standard, and eligibility could be established after meeting a 6 month deductible of \$58,697.00 (monthly deductible of \$9,782.95) for the period January 1, 2023 to July 1, 2023. *See* 130 CMR 520.009 and Exhibit 1). The appellant filed this appeal in a timely manner on August 7, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits and imposed a deductible she would need to meet to qualify.

Issue

The appeal issue is whether MassHealth correctly calculated the imposed deductible and whether the appellant has submitted sufficient documentation to show that she has met that deductible.

Summary of Evidence

The appellant is an adult over the age of 65 and currently resides in a skilled nursing facility. She was represented at the hearing by a Medicaid Eligibility specialist. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the evidence and testimony provided at the hearing:

On August 1, 2024, MassHealth determined that the appellant is over the income limit to qualify for MassHealth long-term care benefits and imposed a deductible of \$58,697.00 for the 6 month period January 2023 through June 2023. The appellant was informed she could submit medical bills to meet this deductible and establish eligibility for long-term care benefits for a 6 month period.

At the hearing, the appellant challenged two things: the calculation of the deductible, and MassHealth's apparent finding that the documentation she submitted was not acceptable to meet the deductible. It should be noted that the appellant's representative later agreed that the deductible was calculated correctly. See Exhibit 6 at 3. In support of her position, the appellant submitted several bills from the appellant's nursing facility to demonstrate that the deductible was met. The record was kept open for the parties to continue negotiating and for the appellant to submit any additional documentation.

On November 18, 2024, the parties agreed that the appellant has submitted sufficient documentation to show that she has met the 6 month deductible for four periods: 1/2023 through 6/2023, 7/2023 through 12/2023, 1/2024 through 6/2024, and 7/2024 – present. MassHealth reported that their computer system is having difficulty accepting some of the documents for the older periods, but that the agency's position is that the appellant has satisfied the deductible for each of those periods. The parties requested that the Board of Hearings issue a decision memorializing the issue and ordering MassHealth to accept that the appellant's applicable deductible periods have been met.

Findings of Fact

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

1. The appellant is an adult over the age of 65 who currently resides in a skilled nursing facility. Exhibit 1, Exhibit 4, Testimony.
2. On August 1, 2024, MassHealth determined that the appellant is over the income limit to qualify for MassHealth long-term care benefits and imposed a deductible of \$58,697.00 for the 6 month period January 2023 through June 2023. Exhibit 1.

3. The appellant filed a timely request for fair hearing on August 7, 2024. Exhibit 2.
4. The parties agree that the deductible was properly calculated and that the appellant has met the 6 month deductible for four periods: 1/2023 through 6/2023, 7/2023 through 12/2023, 1/2024 through 6/2024, and 7/2024 – present. Exhibit 6 at 1-3.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;
- (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets When One Spouse Is Institutionalized; and
- (5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

130 CMR 519.006(A).

Long-term care facility residents contribute their monthly income toward the cost of care, unless the income "exceeds the public rate in a long-term-care facility." 130 CMR 520.028(C). Such individuals can establish eligibility for long-term care benefits by meeting a deductible. *Id.* The

deductible process is described at 130 CMR 520.028-035, and is calculated “by multiplying the excess monthly income by six.” 130 CMR 520.030. Such an individual is only qualified once they have met the deductible, and only remains qualified until the end of the deductible period. *See Id.* at 520.031(B).

An individual who must meet a deductible can establish eligibility through the following process:

(A) Criteria. To establish eligibility by meeting a deductible, the individual must submit verification of medical bills whose total equals or exceeds the deductible and that meet the following criteria.

- (1) The bill must not be subject to further payment by health insurance or other liable third party coverage, including the Health Safety Net.
- (2) The bill must be for an allowable medical or remedial-care expense in accordance with 130 CMR 520.032(B). A remedial-care expense is a nonmedical support service made necessary by the medical condition of the individual or the spouse.
- (3) The bill must be unpaid and a current liability or, if paid, paid during the current six month deductible period.
- (4) Any bill or portion of a bill used to meet a deductible may not be applied to any other deductible period. However, any portion of a bill not used to meet the current deductible may be used in a future deductible period. The MassHealth agency will not pay any bills or portions of bills that are used to meet the deductible. These bills remain the responsibility of the applicant.

(B) Expenses Used to Meet the Deductible. The MassHealth agency applies bills to meet the deductible in the following order:

- (1) Medicare and other health-insurance premiums credited prospectively for the cost of six months' coverage, deductibles, enrollment fees, or coinsurance charges incurred by the individual and the spouse;
- (2) expenses incurred by the individual and the spouse for necessary medical and remedial care services that are recognized under state law but are not covered by MassHealth, including guardianship fees and related expenses as described in and allowed under 130 CMR 520.026(E)(3); and
- (3) expenses incurred by the individual, a family member, or financially responsible relative for necessary medical and remedial-care services that are covered by MassHealth.

(C) Expenses that Cannot be Used to Meet the Deductible. Expenses that may not be applied to meet the deductible include, but are not limited to, the following:

- (1) cosmetic surgery;
- (2) rest-home care;

- (3) weight-training equipment;
- (4) massage therapy;
- (5) special diets; and
- (6) room-and-board charges for individuals in residential programs.

130 CMR 520.032.

In this case, the parties agree that MassHealth properly calculated the appellant's deductible amount, and they also agree that the appellant has submitted the necessary medical bills to demonstrate that she has met that deductible for 1/2023 through 6/2023, 7/2023 through 12/2023, 1/2024 through 6/2024, and 7/2024 – present. The parties requested that this decision be issued only because MassHealth is having technical difficulty in implementing the appellant's approval for long-term care benefits. However, the parties do not dispute that she has established eligibility for these time periods. For those reasons, I find that the appellant has met her burden of proof that she currently qualifies for MassHealth long-term care benefits and qualified for coverage during the above 6 month deductible period for expenses over and above the deductible amounts. I find error with the August 1, 2024, notice only to the extent that it states that she is not eligible for long-term care services.

For the foregoing reasons, the appeal is hereby APPROVED.

Order for MassHealth

Accept the appellant's expenses used to meet the deductible and approve her for long-term care benefits for the four deductible periods: 1/2023 through 6/2023, 7/2023 through 12/2023, 1/2024 through 6/2024, and 7/2024 – present for MassHealth covered services over and above the expenses used to meet the deductible each period.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Mariah Burns
Hearing Officer
Board of Hearings

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MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center