

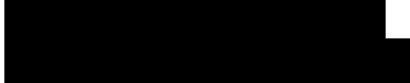
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2417988
Decision Date:	2/14/2025	Hearing Date:	12/30/2024
Hearing Officer:	Christopher Jones		

Appearances for Appellant:



Appearance for MassHealth:

Janine Monico – Tewksbury Ongoing



*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:	Long-term-care; PPA; Health Insurance Deduction
Decision Date:	2/14/2025	Hearing Date:	12/30/2024
MassHealth's Rep.:	Janine Monico	Appellant's Reps.:	Family
Hearing Location:	Telephonic	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 four notices dated November 7, 2024, MassHealth recalculated the appellant's patient paid amount back to January 1, 2024. (Exhibits 1-3, 8; 130 CMR 520.025-.026.) The appellant filed this appeal in a timely manner on November 22, 2024. (Exhibit 4; 130 CMR 610.015(B).) MassHealth determinations regarding the scope or amount of assistance are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth recalculated the appellant's patient-paid-amount for several timespans going back to January 1, 2024.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.026, in calculating the appellant's patient-paid amount.

Summary of Evidence

MassHealth's representative testified that the case had originally been assigned to another worker in the ongoing unit and had been re-assigned to her the day of the hearing. MassHealth's representative testified that the case appeared to have been a conversion application for a person who had MassHealth community benefits prior to entering the nursing facility. The long-term-care conversion application was received in November 2023. It was initially denied in March 2024, and that denial was appealed. The application was approved in May 2024 following a fair hearing.

The parties dispute revolves around the calculation of the appellant's patient-paid-amount ("PPA"). The parties agreed that this appeal could only address patient PPA calculations that were contemplated in MassHealth's four notices, reaching back to January 1, 2024.

- Notice 67556875 changed the appellant's PPA from \$1,253.14 to \$1,771.89 as of January 1, 2024. This calculation was based on the appellant's income as \$1,897 from Social Security and a private pension of \$1,162.69. This notice allowed a personal-needs allowance of \$72.80 and a home-maintenance allowance of \$1,215.
- Notice 67556879 adjusted the PPA from \$2,551.44¹ to \$2,968.89, effective February 1, 2024. This calculation used the same income but removed the home-maintenance allowance.
- Notices 67556883 and 67556887 adjusted the PPA from \$2,551.44 to \$3,021.77, effective July 1, 2024, and November 1, 2024, respectively. These notices used pension income of \$1,197.57.

The parties stipulated to the appellant's income for 2024. The appellant received Social Security benefits of \$1,897.00, and she received a pension that started the year at \$1,162.69 and increased to \$1,197.57 as of August 1, 2024. MassHealth also agreed to the following deductions from the appellant's income; a personal-needs allowance ("PNA") of \$72.80; a home-maintenance-needs allowance (rent allowance) of \$1,215.00 for January and February 2024; and a Colonial Penn Medicare Supplement premium of \$350.40 in January 2024, and \$380.09 for February through December 2024.

The only deduction that remained in dispute was a Bankers Life Home Health Premium. This premium was \$128.05 in January and February 2024, and \$128 from March through May 2024. The appellant's representative explained that this was a long-running policy for which the appellant had paid premiums for years. The policy reimbursed the appellant for home-health services she received in the community, but it also waived its premiums while the appellant was receiving reimbursable services. That waiver ended when she entered the nursing home. In January 2024,

¹ There is no notice in the record calculating the change to \$2,551.44.

the insurance company billed the appellant a lump sum of \$640.27 for five months (October 2023 through February 2024).² The appellant continued to pay the premium through May 2024. She canceled the policy when she acknowledged that she was not going to be able to return to the community to take advantage of the policy's benefits.

MassHealth's representative testified that she had never seen an insurance policy like this before. MassHealth's representative objected to the policy as for services that were provided prior to her entering the nursing facility, and not for services the appellant was actively receiving. The appellant's representative testified that they continued paying for the policy with the expectation that the appellant would return to the community and benefit from the policy again. MassHealth's representative did not believe that it was appropriate to allow a deduction for an insurance policy that was not actively covering the member. The appellant's representative noted that MassHealth allowed a deduction for the appellant's MediGap insurance premiums, even though the member does not use it while in the nursing facility. MassHealth acknowledged that supplemental insurance benefits are allowed as deductions from income because members may use those benefits in the future if they require hospitalization. The appellant's representative argued that this policy was maintained only so long as they planned for the appellant to go home. This ensured there would be services in place to allow her to return home; services that would not need to be paid by MassHealth.

The appellant's representative had calculated the appellant's monthly PPAs to be: \$1,293.44 in January; \$1,263.75 in February; \$2,478.80 in March, April, and May; \$2,606.80 in June and July; and \$2,641.68 for the remainder of the year. MassHealth agreed with the calculations for June 2024 through December 2024. The only disagreement regarding the first five months was whether the appellant was entitled to the home-health insurance policy premium deductions: \$128.05 deduction in January and February, and a \$128 deduction in March, April, and May.

Findings of Fact

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

- 1) The appellant received over-65 MassHealth community benefits prior to entering a skilled-nursing facility in 2023. A long-term-care conversion application was filed in November 2023. (Testimony by MassHealth's representative.)
- 2) This conversion application was initially approved in May 2024. (Testimony by MassHealth's representative.)

² The appellant's representatives conceded that any PPA adjustments prior to January 1, 2024, were untimely appealed and could not be addressed in this decision.

- 3) Through four notices dated November 7, 2024, MassHealth recalculated the appellant's PPA, effective January 1, 2024, February 1, 2024, July 1, 2024, and November 1, 2024. (Exhibits 1-3; 8.)
- 4) The appellant's Social Security income throughout 2024 was \$1,897.00. The appellant's private pension was \$1,162.69 from January 2024 through July 2024. On August 1, 2024, it increased to \$1,197.57. (Testimony by MassHealth and the appellant's representatives; Exhibit 7.)
- 5) The appellant is entitled to the home-maintenance-needs allowance in January and February 2024. (Testimony by MassHealth's representative.)
- 6) The appellant had a supplemental health insurance premium of \$350.40 per month in January 2024, which increased to \$380.09 per month for the remainder of the year. (Testimony by MassHealth's representative; Exhibit 7.)
- 7) The appellant subscribed to a home-health insurance plan that reimbursed her for covered home-health services. This plan did not charge her premiums while she received covered home-health services. In January 2024, the insurance plan billed the appellant \$640.27 for five months premiums (October 2023 through February 2024), as the plan had not been used during those months. (Testimony by the appellant's representative; Exhibit 7, p. 17.)
- 8) The appellant cancelled the home-health plan in May 2024 after it was decided she could not return to the community. (Testimony by the appellant's representative.)

Analysis and Conclusions of Law

To determine a member's PPA, MassHealth regulations require that deductions be made from the member's income "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." (130 CMR 520.026.) The spousal- and family-maintenance-needs allowance are not relevant here.

(A) Personal-needs Allowance.

(1) The MassHealth agency deducts \$72.80 for a long-term-care resident's personal-needs allowance (PNA).

...

(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% federal poverty level income standard for one person.

(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.

(130 CMR 520.026(A), (D)-(E).)

MassHealth agreed with the appellant's representative's PPA calculation for June through December 2024. The appellant's PPA should be \$2,606.80 in June and July 2024; and \$2,641.68 for August through December 2024. Although MassHealth agreed to these amounts at hearing, MassHealth must issue new notices reflecting these amounts. This appeal is APPROVED with regards to these months' PPA calculations.

Health insurance is defined to be "coverage of health-care services by a health-insurance company, a hospital-service corporation, a medical-services corporation, a managed care organization, or Medicare. Coverage of health-care services by MassHealth, Health Safety Net (HSN), or Children's Medical Security Plan (CMSP) is not considered health insurance." (130 CMR 515.001.)

The appellant's home-health insurance contract satisfies this definition. MassHealth may legitimately dispute whether a member should be allowed to keep such policy after the member is clinically determined to need long-term-care services. MassHealth noted the 6-month cap on the home-maintenance-needs allowance, but that deduction "terminates at the end of the sixth month after the month of admission regardless of the prognosis to return home at that time." The appellant cancelled the policy as soon as it became apparent that she could not return to the community. Therefore, the contract is an allowable health-insurance premium or membership cost. Because such deduction is allowed, the appellant's PPA for January 2024 through May 2024 is as follows: \$1,293.44 in January 2024; \$1,263.75 in February 2024; and \$2,478.80 in March, April, and May 2024. The appeal is APPROVED.

Order for MassHealth

Modify the notices dated November 7, 2024, to allow the appellant's home-health insurance premiums to be deducted for January through May 2024, and calculate her PPA to be: \$1,293.44 in

January 2024; \$1,263.75 in February 2024; \$2,478.80 in March, April, and May 2024; \$2,606.80 in June and July 2024; and \$2,641.68 for August through December 2024.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: Appellant Attorney:

[REDACTED]

Appellant Representative:

[REDACTED]

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957