

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2418662
Decision Date:	04/11/2025	Hearing Date:	01/17/2025
Hearing Officer:	Kenneth Brodzinski	Record Open to:	02/18/2025

Appearance for Appellant:



Appearance for MassHealth:

Scarlis Javier



*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:	PPA Calculation
Decision Date:	04/11/2025	Hearing Date:	01/17/2025
MassHealth's Rep.:	Scarlis Javier	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MEC		

Authority

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

Jurisdiction

Through notice dated October 29, 2024, MassHealth informed Appellant that it was raising her Patient Paid Amount ("PPA") from \$4,795.32 to \$6,807.61 as of September 1, 2024 (Exhibit A). Appellant filed this appeal in a timely manner on December 6, 2025, challenging the increase (Exhibit A). Determining a PPA constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined a new PPA as of September 1, 2024.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it calculated Appellant's PPA effective September 1, 2024.

Summary of Evidence

The MassHealth representative testified that Appellant resides in a skilled nursing facility and is a recipient of MassHealth Long Term Care benefits. Appellant filed a completed eligibility renewal form on July 22, 2024. As part of the renewal, Appellant re-verified her current monthly income. Based on the verified income, MassHealth redetermined Appellant's PPA based on the following gross monthly figures (See, Exhibit B):

Social Security: \$1,727.00

VA Pension: \$2,012.29

Pensions: \$3,401.27 ([REDACTED] - \$2,92.61) ([REDACTED] \$1,208.66)

Total: \$ 7,140.56

Deductions allowed by 130 CMR 520.026 include: \$72.80 – PNA and \$260.15 - Health Insurance. **Total deductions = \$332.95.**

Total income \$7,140.56 – total deduction \$332.95 = **PPA \$6,807.61**

The MassHealth representative also testified that system notes regarding Appellant's PPA include the following statement:

9/3/24 ELIG POLICY: PER LITIGATION AND 30A PROCESS, ADJUSTED PPAS AS FOLLOWS: EFF 1/2022 THRU 7/2024 PPA IS \$3,460.32 AND PPA EFF 8/1/24 IS \$4,795.32. THESE PPAS SHOULD NOT BE CHANGED OR ALTERED IN ANY WAY. ALL MA21 NOTICES RELATED TO THSE UPDATES HAVE BEEN PLACED ON HOLD AS MEMBER WILL RECEIVE NOTIFICATION VIA 30A PROCESS. STARTING 9/2024, PPAS CAN BE UPDATED 'BUSINESS AS USUAL'.

Appellant was represented by counsel who explained by testimony and a post-hearing submission (Exhibit C) that MassHealth had entered into a stipulation to resolve a MGL Ch. 30A appeal¹ in which MassHealth agreed not to count Appellant's VA pension benefit towards her PPA so that Appellant may use the VA pension amount to pay off "outstanding obligations" arising from "overdue payments" she has with the skilled nursing facility where she resides (Exhibit C, page1). Appellant's post-hearing submission includes a copy of a letter from MassHealth to Appellant dated September 3, 2024 which states in pertinent part:

- 1) From January 1, 2022 through and including July 31, 2024, your Patient Paid Amount ("PPA") will be \$3,460.32; and
- 2) Effective August 1, 2024, your PPA will be \$4,795.32.

Appellant maintains that MassHealth's action of raising her PPA from \$4,795.32 to \$6,807.61 by

¹ Middlesex Superior Court Civil Action No. 2381CV03290

including her VA pension amount in the PPA calculation violates the stipulated agreement.

A copy of the Stipulation of Dismissal dated September 5, 2024 was filed with Appellant's Fair Hearing Request (Exhibit A).

Findings of Fact

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

- 1) Appellant resides in a skilled nursing facility and is a recipient of MassHealth Long Term Care benefits.
- 2) Appellant filed a completed eligibility renewal form on July 22, 2025.
- 3) As part of the renewal, Appellant re-verified her current monthly income.
- 4) Based on the verified income, MassHealth redetermined Appellant's PPA based on the following gross monthly figures: Social Security: \$1,727.00 + VA Pension: \$2,012.29 + Pension [REDACTED] - \$2,92.61 + Pension [REDACTED] - \$1,208.66 = \$ 7,140.56.
- 5) MassHealth applied the following deductions allowed under 130 CMR 520.026: \$72.80 (PNA) and \$260.15 (health Insurance) for total deductions of \$332.95.
- 6) From total income of \$7,140.56, Masshealth applied total deductions of \$332.95 to reach a PPA of \$6,807.61
- 7) A note in MassHealth's systems dated September 3, 2024 states: "ELIG POLICY: PER LITIGATION AND 30A PROCESS, ADJUSTED PPAS AS FOLLOWS: EFF 1/2022 THRU 7/2024 PPA IS \$3,460.32 AND PPA EFF 8/1/24 IS \$4,795.32. THESE PPAS SHOULD NOT BE CHANGED OR ALTERED IN ANY WAY. ALL MA21 NOTICES RELATED TO THSE UPDATES HAVE BEEN PLACED ON HOLD AS MEMBER WILL RECEIVE NOTIFICATION VIA 30A PROCESS. STARTING 9/2024, PPAS CAN BE UPDATED 'BUSINESS AS USUAL'".
- 8) In September 2024, MassHealth and Appellant entered into a stipulation to resolve a MGL Ch. 30A appeal.
- 9) According to a letter from MassHealth dated September 3, 2024, MassHealth agreed to adjust Appellant's PPA for specific months as follows: from January 1, 2022 through and including July 31, 2024, the Patient Paid Amount ("PPA") will be \$3,460.32; and effective August 1, 2024, the PPA will be \$4,795.32 (Exhibit B, page 3).
- 10) A Stipulation of Dismissal dated September 5, 2024 was filed with the Middlesex Superior

Court (Exhibit A).

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)). On this record, Appellant has failed to meet her burden.

This record shows that Appellant entered into an agreement with MassHealth to resolve a MGL Ch. 30A appeal. The only evidence supplied by Appellant as to the nature of that agreement was a copy of a letter from MassHealth dated September 3, 2024 in which MassHealth states what the amount of Appellant's PPA for the months of January through July 2024 will be a certain amount and another amount effective August 2024 (Exhibit B, page 3). From this and only this, Appellant wants this Board to find that there was an agreement not to count Appellant's VA pension until she has used it to pay off debts owed to the skilled nursing facility where she resides. This record simply contains no evidence to support such a finding.

Additionally, the note from MassHealth's system, dated the same day as MassHealth's letter, states that after August 2024, the PPA can be updated "business as usual". At the least, this note indicates that MassHealth did not have the same understanding as Appellant purports to have had at the time the agreement was made.

Lastly, as the hearing officer explained at hearing, it would be odd, and contrary to MassHealth regulations, to allow a MassHealth member to reduce her PPA by any amount in order for her to satisfy a debt with a nursing facility that is receiving MassHealth Long term Care Benefits to cover the cost of her care. To do so, would in all practical effect, make MassHealth the payor of the debt, a debt that was presumably not covered by MassHealth in the first place because the agency determined Appellant was not eligible for MassHealth coverage during the period under which the debt arose.

This record provides no basis to alter MassHealth's PPA determination made on October 29, 2024 (Exhibit A). The record shows that MassHealth counted all of Appellant's monthly income and reduced it by the applicable deductions allowed under 130 CMR 520.026. For the foregoing reasons, 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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290