

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500441
Decision Date:	03/21/2025	Hearing Date:	February 07, 2025
Hearing Officer:	Brook Padgett	Record Open:	March 07, 2025

Appellant Representative:



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:	Patient Paid Amount 130 CMR 520.026
	03/21/2025	Hearing Date:	February 07, 2025
MassHealth Rep.:	K. Towle	Appellant Rep.:	Daughter
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 December 13, 2024 stating: "MassHealth has determined you are eligible for MassHealth Standard benefits to cover your care in a nursing facility. Your eligibility begins on September 01, 2024. Starting on September 01, 2024, you will owe your nursing facility \$3,370.62 every month to help pay for your care." (130 CMR 520.025, 520.026) (Exhibit 2). The appellant filed this appeal timely on January 08, 2025. (130 CMR 610.015(B); Exhibit 2). Determination of the long-term care start date and patient paid amount are valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for long term care benefits starting September 01, 2024 and established a patient paid amount of \$3,370.62

Issue

Was the appellant's patient paid amount properly determined?

Summary of Evidence

MassHealth testified that appellant applied for MassHealth long-term care benefits on September 12, 2024. On December 13, 2024 the appellant was approved for long-term-care (LTC) coverage with a patient paid amount (PPA) of \$3,370.62 based on the appellant's monthly gross income of \$5,000.00 (\$1,625.00 Social Security + \$3,375.00 from U.S. Department of Labor (workers' compensation)). MassHealth testified that after deduction of the appellant's Personal Needs Allowance (PNA) (\$72.80), home maintenance needs allowance (\$1,255.00) and health insurance (\$301.58), the appellant's PPA was calculated to be \$3,370.62 (\$5,000.00 - \$72.80 - \$1,255.00 - \$301.58 = \$3,370.62). MassHealth stated the appellant's representative has indicated the appellant has \$525.00 deducted from her workers' compensation benefit and a \$910.45 Federal Employees Retirement System (FERS) offset; however, the regulations at 130 CMR 520.026 do not allow an income deduction for overpayments or offsets. (Exhibit 4).

The appellant's representative argued the appellant had previously been an employee with the United States Postal Service and received workers' compensation benefits and Social Security benefits. After receiving payments for many years, it was determined she was overpaid benefits, and Social Security and workers' compensation began to deduct money from her checks to repay the overpayment. The representative argues that MassHealth has assessed the appellant's PPA based on the gross amount of her Social Security and worker's compensation without considering the repayment and the FERS offset, and the appellant does not have the money to pay the PPA.

MassHealth responded that the regulations require the PPA be calculated using gross income and deductions such as overpayment repayments and offsets are not considered.

The hearing record was left open until March 07, 2025 for the appellant's representative to submit any additional information regarding the appellant's workers' compensation income deduction or FERS offset and why it should be deducted. (Exhibit 5).

On March 05, 2025, the appellant's representative submitted a letter from the Depart of Labor Office of Workers' Compensation Program (OWCP) dated May 02, 2018 explaining the appellant, through no fault of her own, received a \$106,475.38 overpayment from the Social Security Administration at the same time she was receiving OWCP benefits without offset; along with an OWCP Final Overpayment Decision dated May 05, 2023, acknowledging the appellant was not at fault receiving the overpayment, but denying the appellant's request to waive the repayment of the overpayment amount. (Exhibit 6).

On March 06, 2025, MassHealth responded to the appellant's submission and stated that after review, the decision had not changed as 130 CMR 520.026 does not allow deductions from gross income to pay back monies already received. (Exhibit 7).

On March 07, 2025, LTC Matters submitted a request that they be entered as a representative regarding the appellant's MassHealth application and appeal. LTC Matter also submitted a

letter in support and a resubmission of Exhibit 6 (OWCP letter dated May 02, 2018 and OWCP Final Overpayment Decision dated May 05, 2023). (Exhibit 8 and 9).

The LTC response was forward to MassHealth for review and on March 10, 2025, MassHealth responded that the MassHealth decision remain unchanged. (Exhibit 10).

Findings of Fact

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

1. The appellant currently resides in a nursing facility. (Testimony).
2. The appellant applied for MassHealth long-term care benefits on September 12, 2024. (Testimony).
3. On December 13, 2024 the appellant was approved for long-term-care coverage beginning September 01, 2024 with a PPA of \$3,370.62. (Exhibit 1).
4. The appellant receives gross income of \$5,000.00 per month (\$1,625.00 Social Security + \$3,375.00 from U.S. Department of Labor workers' compensation). (Exhibit 4 and testimony).
5. On May 02, 2018 the OWCP determined the appellant through no fault of her own received a \$106,475.38 overpayment in Social Security benefits. (Exhibit 6).
6. On May 05, 2023, OWCP denied the appellant's request to waive the repayment of the overpayment amount. (Exhibit 6).
7. MassHealth calculated the appellant's PPA to be \$3,370.62, after deduction of the appellant's PNA of \$72.80, home maintenance needs allowance of \$1,255.00 and \$301.58 for health insurance. (Exhibit 1).

Analysis and Conclusions of Law

In calculating a PPA, MassHealth looks to both the countable income and allowable deductions. (130 CMR 520.009; 520.026). The regulations define countable income as an individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions. (130 CMR 520.009(A)(1)). For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable income amount to determine the PPA. 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. (130 CMR 520.026).

The appellant's only dispute is the monthly PPA amount she is required to pay the nursing facility.

On May 02, 2018 OWCP determined the appellant received an overpayment of \$106,475.38 from the Social Security Administration as she had received OWCP benefits without the Social Security offset. As a result, the appellant has \$525.00 deducted from her workers' compensation benefits and a \$910.45 FERS offset, reducing her income to \$3,564.55. Although the evidence is clear that through no fault of her own, the appellant's net income is less than her gross of \$5,000.00 due to the repayments, the MassHealth regulations do not allow for a PPA deduction for reimbursements such as OWCP offsets or Social Security overpayments. (130 CMR 520.026).¹

The appellant is a single individual residing in a nursing facility. MassHealth regulations allow deductions from the appellant's gross income, the appellant's PNA (\$72.80), monthly health insurance premium (\$301.58) and a home maintenance allowance (\$1,255.00) pursuant to 130 CMR 520.026(A), (D) and (E) to determine the PPA obligation to the nursing facility. Based on these deductions MassHealth properly calculated the appellant's PPA to be \$3,370.62. ($\$5,000.00 - \$72.80 - \$1,255.00 - \$301.58 = \$3,370.62$).

MassHealth's determination that the appellant's PPA is \$3,370.62 must be upheld and the appeal is DENIED.

¹ 130 CMR 520.026: Long-Term-Care General Income Deductions General income deductions must be taken in the following order: personal needs allowance (\$72.80 a month); spousal-maintenance-needs allowance; family-maintenance-needs allowance for qualified family members; home-maintenance allowance; health-care coverage and incurred medical and remedial-care expenses.

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:
Springfield MEC

Appellant's Representatives:

[REDACTED]