

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2507659
<b>Decision Date:</b>	07/18/2025	<b>Hearing Date:</b>	June 12, 2025
<b>Hearing Officer:</b>	Brook Padgett		

**Appellant Representatives:**



**MassHealth Representative:**

Katherine Towle, Springfield MEC



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Division of Medical Assistance  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	LTC; Patient Paid Amount 130 CMR 520.026
	07/18/2025	<b>Hearing Date:</b>	June 12, 2025
<b>MassHealth Rep.:</b>	K. Towle	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	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 April 16, 2025 stating: "MassHealth has determined you are eligible for MassHealth Standard benefits to cover your care in a nursing facility. Your eligibility begins on February 06, 2025. Starting in February 06, 2025, you will owe your nursing facility \$2,097.70 every month to help pay for your care." (130 CMR 520.025, 520.026) (Exhibit 2).

The appellant filed this appeal timely on May 16, 2025. (130 CMR 610.015(B); Exhibit 2).

Determination of Patient Paid Amount (PPA) is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved the appellant for long term care benefits starting February 06, 2025 and established a PPA of \$2,097.70.

### Issue

Was the appellant's PPA properly determined?

## Summary of Evidence

MassHealth testified that the appellant, who is married and has a spouse living in the community, was admitted to the nursing facility on [REDACTED], and applied for long term care benefits on January 03, 2025. On April 16, 2025 the appellant was approved for MassHealth long term care (LTC) benefits beginning February 06, 2025 with a Patient Paid Amount (PPA) of \$2,097.70. MassHealth stated the PPA was calculated based on the appellant's monthly gross income of \$4,048.00 (\$1,931.00 Social Security + \$2,117.00 VA pension) after deductions for his Personal Needs Account (PNA) (\$72.80) and Spousal Maintenance Needs Allowance (SMNA) (\$1,877.50). Prior to the appeal MassHealth recalculated the appellant's PPA due to an increase in the appellant's pension. His monthly gross income increased to \$4,169.00 (\$1,931.00 Social Security + \$2,238.00 VA pension) and after deductions of the PNA (\$72.80) and SMNA (\$1,877.50) MassHealth established a new PPA of \$2,218.70. MassHealth stated the appellant's representative has indicated the appellant has \$752.00 deducted from his VA pension for his ex-wife; however, the regulations at 130 CMR 520.026 do not allow an income deduction for payments such as alimony. MassHealth submitted into evidence MassHealth regulations. (Exhibit 4).

The appellant's representative argued the appellant is not paying alimony, but the United States Air Force (USAF) has been deducting \$752.00 from his pension since 1985 as part of an asset distribution with his ex-wife. The representative stated the appellant has no control over this deduction which has been raised to \$877.00. The representative stated that after the appellant's ex-wife is paid, there is not enough money left to pay the full PPA. The representative argued the appellant has no control over the payment to his ex-wife as it is part of separation agreement approved by the USAF. The representative stated the facility has been paid as of June, but there is not enough money to continue to pay the full PPA. The representative indicated the appellant also pays \$61.00 for health insurance which was not considered.

MassHealth recalculated the PPA to be \$2,157.70 after deducting the appellant's health insurance premium (\$4,169.00 - \$61.00 health insurance - \$72.80 PNA - \$1,877.50 SMNA). MassHealth reiterated that the regulations require the PPA be calculated using gross income and deductions such payments to his ex-wife are not considered when determining the PPA.

## 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 has a spouse residing in the community. (Testimony),

3. The appellant applied for MassHealth long term care benefits on January 03, 2025. (Testimony).
4. On April 16, 2025, the appellant was approved for long-term-care coverage beginning February 06, 2025 with a PPA of \$2,097.70. (Exhibit 1).
5. MassHealth subsequently recalculated a new PPA of \$2,218.70 due to an increase in the appellant's pension.
6. The appellant receives gross income of \$4,169.00 (\$1,931.00 Social Security + \$2,238.00 VA pension). (Testimony).
7. The appellant has \$877.00 deducted from his VA pension as part of a separation agreement approved by the USAF. (Testimony).
8. MassHealth again recalculated the PPA, with a new monthly PPA of \$2,157.70, after deduction of his PNA of \$72.80, SMNA of \$1,877.50, and health insurance premium of \$61.00 from his current gross income of \$4,169.00. (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)).<sup>1</sup> 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).

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<sup>1</sup> 130 CMR 520.009: Countable-income Amount (A) Overview. **(1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount.** In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly. **(2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility. (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.** (4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.. (*Emphasis added*).

Since 1985, the appellant has had funds deducted from his VA pension to pay his ex-wife as part of a separation agreement approved by the USAF. Although the evidence is clear that the appellant's net income is less than his gross of \$4,169.00 due to the \$877.00 currently being deducted from his VA pension, the MassHealth regulations do not allow for a PPA deduction for payments such as alimony or separation agreement offsets. (130 CMR 520.026). Regulations require MassHealth consider the appellant's gross VA pension when calculating the PPA; therefore, there is no deduction for the \$877.00 paid to the appellant's ex-wife when calculating the appellant's PPA.

The appellant is residing in a nursing facility. MassHealth allowed deductions of the appellant's PNA of \$72.80, his monthly health insurance premium of \$61.00, and a spousal maintenance allowance of \$1,877.50 pursuant to 130 CMR 520.026(A), (B) and (E)<sup>2</sup> when calculating his PPA, as required by

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<sup>2</sup> 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. 520.026: Long-term-care General Income Deductions 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. These deductions are used in determining the monthly patient-paid amount.

(A) Personal-needs Allowance. (1) The MassHealth agency deducts \$72.80 for a long-term-care resident's personal-needs allowance (PNA). (2) If an individual does not have income totaling the standard, the MassHealth agency will pay the individual an amount up to that standard on a monthly basis. (3) The PNA for SSI recipients is \$72.80.

(B) Spousal-maintenance-needs-deduction. If the community spouse's gross income is less than the amount he or she needs to live in the community (minimum-monthly-maintenance-needs allowance, MMMNA) as determined by the MassHealth agency, the MassHealth agency may deduct an amount from the institutionalized spouse's countable-income amount to meet this need. This amount is the spousal-maintenance-needs deduction. 130 CMR 520.026(B) applies to the first month of eligibility in an institution and terminates the first full calendar month in which the spouse is no longer in an institution or no longer has a spouse in the community. This deduction is the amount by which the minimum-monthly-maintenance-needs allowance exceeds the community spouse's gross income. (1) The MassHealth agency determines the MMMNA by adding the following amounts: (a) \$1,822 (the federal standard maintenance allowance); and (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$547 and the shelter expenses for the community spouse's principal residence, including 1. the actual expenses for rent, mortgage (including interest and principal), property taxes and insurance, and any required maintenance charge for a condominium or cooperative; and 2. the applicable standard deduction under the Supplemental Nutrition Assistance Program for utility expenses. If heat is included in the rent or condominium fee, this amount is \$375. If heat is not included in the rent or condominium fee, this amount is \$611. (2) The maximum-monthly-maintenance-needs allowance is \$2,739.00 per month, unless it has been increased as the result of a fair-hearing decision based on exceptional circumstances in accordance with 130 CMR 520.017(D). (3) If the institutionalized individual is subject to a court order for the support of the community spouse, the court-ordered amount of support must be used as the spousal maintenance-needs deduction when it exceeds the spousal-maintenance-needs deduction calculated according to 130 CMR 520.026(B) or resulting from a fair hearing.

(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. (2) Incurred Expenses. (a) After the applicant is approved for MassHealth, the MassHealth agency will allow deductions for the applicant's necessary medical and remedial-care expenses. These expenses must not be payable by a third party. These expenses must be for medical or

regulation.

MassHealth correctly recalculated the appellant's PPA to be \$2,157.70 and this 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.

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Brook A. Padgett  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Springfield MEC

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remedial-care services recognized under state law but not covered by MassHealth. (b) These expenses must be within reasonable limits as established by the MassHealth agency.