

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:

Appeal Decision:	Dismissed in Part; Denied in Part	Appeal Number:	1600128
Decision Date:	2/11	Hearing Date:	February 1, 2016
	Hearing Officer:	Stanley M. Kallianidis	

Appellant Representative:

MassHealth Representative:

Cassandra Dustin, Taunton



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Dismissed in Part; Denied in Part	Issue:	Patient Paid Amount
Decision Date:	2/11	Hearing Date:	February 1, 2016
MassHealth Rep.:	Cassandra Dustin		

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 October 23, 2015, MassHealth approved the appellant for long-term care coverage and established her patient paid amount (PPA) at \$1005.70. Subsequently, in a December 2, 2015 notice, MassHealth lowered the appellant's PPA to \$901.70 due to a change in countable income (see 130 CMR 520.026 and Exhibits 1 & 2). MassHealth also issued a second notice on October 23, 2015, this of its intent to place a lien on the appellant's property (Exhibit 3). The appellant filed her appeals on November 16, 2015 (see 130 CMR 610.015 and Exhibits 1-4). At the hearing, the MassHealth representative indicated that MassHealth would rescind its action to lien the appellant's property. The lien issue has thus been rendered moot and, accordingly is dismissed. The dispute over the PPA is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth established a PPA of \$1005.70 for the appellant and revised it to \$901.70.

Issue

In accordance with 520.026, did MassHealth correctly establish the appellant's PPA?

Summary of Evidence

The MassHealth representative testified that the appellant was a MassHealth recipient who was converted to a Standard long-term care member on September 15, 2015 (Exhibit 5). She was given September 15, 2015 as a MassHealth start date as this was the date that her nursing home had requested. She was admitted to her facility on June 25, 2015 (Exhibit 5). Her admission form, which was dated September 11, 2015, indicated that her length of stay was expected to be more than six months. She was therefore not entitled to a home maintenance deduction (Exhibit 5). The MassHealth representative indicated that the appellant has two disabled children living in her home but that there is no community spouse. Therefore, the appellant could not qualify for a family maintenance deduction either.

The appellant's PPA as of September 2015 was based upon Social Security of \$1221.00 (Exhibit 1). Her deductions were limited to the \$72.80 personal needs allowance and \$142.50 for health insurance (Exhibit 1). Beginning December 2015, her countable Social Security dropped to \$1117.00. This resulted in a lowered PPA of \$901.70 (Exhibit 2).

The appellant's representative testified that the appellant has two disabled children, a son and daughter living in her home, and they will be unable to continue to pay for their shelter expenses without their mother's income. She submitted documents showing their living expenses and also proof of their disability. She submitted as well a doctor's letter which indicated that the appellant's daughter that had been living with her in her home had cared for her in the preceding two years (Exhibit 6).

The MassHealth representative indicated that if the appellant's representative provides a doctor's letter stating that the care provided by the appellant's child or children living with kept the appellant out of a nursing facility in the preceding two years, then the house could be transferred to one or both of them without penalty.

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, a MassHealth recipient, converted to a Standard long-term care member on September 15, 2015 (Exhibit 5).
2. The appellant was given the eligibility date her nursing facility requested (Exhibit 5).
3. The appellant was admitted to her nursing facility on June 25, 2015 (Exhibit 5).
4. The appellant's admission form, dated September 11, 2015, indicated that her length

of stay was expected to be more than six months (Exhibit 5).

5. The appellant has two disabled children living in her home but that there is no community spouse (testimony).
6. A doctor's letter indicated that the appellant's daughter had been living with her in her home and had cared for her in the preceding two years (Exhibit 6).
7. The appellant's PPA as of September 2015 was based upon Social Security of \$1221.00 (Exhibit 1).
8. The appellant's deductions were \$72.80 for a personal needs allowance and \$142.50 for health insurance (Exhibit 1).
9. Beginning December 2015, the appellant's countable Social Security dropped to \$1117.00. This resulted in a lowered PPA of \$901.70 (Exhibit 2).

Analysis and Conclusions of Law

A patient paid amount is an amount that a member in a long-term care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts (130 CMR 515.001).

130 CMR 520.009 provides that 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. 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. These deductions are used in determining the monthly patient paid amount.

The 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).

In the instant case, the appellant's representative is appealing the PPA following the appellant's conversion to a Standard long-term care member on September 15, 2015. The appellant's eligibility date September 15, 2015, is not at issue. The dispute lies in whether or not the appellant is entitled to a home maintenance needs allowance or a family maintenance needs allowance.

A deduction for maintenance of a home is allowed 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 from 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 (130 CMR 520.026(D)(1)).

I have found however, that the appellant's admission form, dated September 11, 2015, indicated that her length of stay was expected to be more than six months. Accordingly, she is not entitled to a home maintenance deduction.

130 CMR 520.026 (C) Deductions for Family-Maintenance Needs: The MassHealth agency allows a deduction from the income of a long-term-care resident to provide for the maintenance needs of the following family members if they live with the community spouse: (a) a minor child — a child younger than 21 years old of either member of the couple; (b) of a child over age 21 who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code.

While I have found that the appellant has disabled children living in the home, there is no community spouse. Therefore, the appellant does not qualify for a family maintenance needs allowance notwithstanding any financial need or hardship of said children.

Finally I have found that a doctor's letter indicated that the appellant's daughter had been living with her in her home and had cared for her in the preceding two years. If the appellant can get a doctor's letter stating that the care provided to the appellant had kept her out of a nursing facility, then the appellant may transfer the home to either one or both of the children without a penalty being imposed. To date, there has not been such a determination.

The appellant's income and allowances are not in dispute. The appellant's PPA as of September 2015 was based upon Social Security of \$1221.00. The appellant's deductions were \$72.80 for a personal needs allowance and \$142.50 for health insurance. Beginning December 2015, the appellant's countable Social Security dropped to \$1117.00. This resulted in a lowered PPA of \$901.70.

In summary, the appellant is eligible for neither a home maintenance deduction nor a family maintenance deduction.

The appeal is therefore 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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc:

Lien Coordinator
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