

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2177676
Decision Date:	01/21/2022	Hearing Date:	12/08/2021
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:



Appearances for MassHealth:

Gabe Gillis, Chelsea MEC



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

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Long-Term Care Patient-Paid Amount
Decision Date:	01/21/2022	Hearing Date:	12/08/2021
MassHealth's Rep.:	Gabe Gillis, Chelsea MEC	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Remote)		

Authority

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

Jurisdiction

By a notice dated September 16, 2021, MassHealth approved the appellant's application for long-term care benefits with an effective date of July 17, 2021, and a patient-paid amount of \$4,947.61 (Exhibit 1). The appellant filed a timely appeal on October 5, 2021 (Exhibit 2). The appeal was dismissed on October 13, 2021, for missing signature or authorization (Exhibit 3). The necessary documentation was then provided, and the Board of Hearings vacated the dismissal (Exhibits 4 and 5). Determination of a patient-paid amount is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's application for long-term care benefits as of July 17, 2021, and set the patient-paid amount at \$4,947.61.

Issue

The appeal issue is whether the community spouse is entitled to a spousal maintenance needs allowance, which would in turn reduce the patient-paid amount.

Summary of Evidence

A representative from the Chelsea MassHealth Enrollment Center appeared at the hearing and testified as follows: The appellant, who is in a nursing facility, has a spouse living in the community who is in her mid-60s. A long-term care application was filed on the appellant's behalf on July 2, 2021, seeking coverage as of July 17, 2021. MassHealth send a request for information on July 12, 2021, with the information due back on August 11, 2021. Because not all of the information was submitted timely, MassHealth denied the application on August 16, 2021. On August 24, 2021, MassHealth received some of the missing information, and then sent out a second request for information. On September 16, 2021, MassHealth processed the application with a coverage effective date of July 17, 2021.

In determining the appellant's patient-paid amount, MassHealth looked at whether his spouse was entitled to a spousal maintenance needs allowance (SMNA). The MassHealth representative submitted into evidence a copy of MassHealth's Minimum Maintenance Needs Allowance (MMMNA) Worksheet, which shows the calculation of the amount of income the spouse requires. The MMMNA was calculated as follows:

Rent/mortgage	\$3,282.91
Property taxes and insurance	\$ 0.00
Required condo/coop maintenance charge	\$ 250.00
Utility allowance	\$ 646.50
Total shelter costs	\$4,179.41
Federal shelter standard	\$ 653.25
Excess shelter costs (\$4,179.41-\$653.25)	\$3,526.16
Standard Maintenance Allowance	\$2,177.50
Total MMMNA (\$3,526.16 + \$2,177.50)	\$5,703.66

MassHealth reduced the MMMNA from \$5,703.66 to the regulatory cap of \$3,259.50. As the community spouse has income of \$5,884.35 of her own, MassHealth determined that she did not require an allowance from the appellant's income to meet her MMMNA of \$3,259.50. See Exhibit 4.

MassHealth then calculated the appellant's patient-paid amount as follows:

Institutionalized spouse's total monthly income:	\$5,069.05
Personal Needs Allowance	\$ 72.80
Health Insurance	- \$ 48.64
PPA	\$4,947.61

The community spouse appeared at the hearing telephonically. She testified that her mortgage is \$3,292 per month and that her husband has bills and debts to cover. She stated that her monthly

expenses total \$4,330, leaving her only about \$100 per month to cover anything else that comes up. When asked about her own health, the spouse testified that she lives in a condominium independently and does not require any help herself. She stated that she was told by someone at the nursing facility that the “clock starts over” on Medicare’s 100-day coverage of long-term care when a patient moves from one facility to another.

Findings of Fact

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

1. The appellant resides in a nursing facility. His spouse lives in the community.
2. On July 2, 2021, a MassHealth long-term care application was filed on the appellant’s behalf, seeking coverage as of July 17, 2021.
3. On September 16, 2021, MassHealth approved the appellant for long-term care benefits effective July 17, 2021. His patient-paid amount (PPA) was determined to be \$4,947.61.
4. On October 5, 2021, the community spouse filed a request for a fair hearing.
5. MassHealth calculated the community spouse’s MMMNA as follows:

Rent/mortgage	\$3,282.91
Property taxes and insurance	\$ 0.00
Required condo/coop maintenance charge	\$ 250.00
Utility allowance	\$ 646.50
Total shelter costs	\$4,179.41

Federal shelter standard	\$ 653.25
Excess shelter costs (\$4,179.41-\$653.25)	\$3,526.16
Standard Maintenance Allowance	\$2,177.50

Total MMMNA (\$3,526.16 + \$2,177.50) \$5,703.66

6. MassHealth reduced the MMMNA to the regulatory cap of \$3,259.50.
7. The community spouse has income in the amount of \$5,069.05 gross per month.
8. Because the spouse’s own income of \$5,884.35 exceeds her MMMNA of \$3,259.50, MassHealth did not allow her a spousal maintenance needs allowance (SMNA).
9. MassHealth calculated a patient-paid amount of \$4,947.61 by taking the appellant’s total monthly income (\$5,069.05) and deducting a personal needs allowance (\$72.80) and his health insurance premium (\$48.64).

10. The community spouse is in her mid-60s and lives independently in the community. She does not require any personal assistance.
11. The community spouse does not have any additional expenses related to her health, frailty, or other special needs, that result in significant financial duress.

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.017(D), either spouse may request an increase in the MMMNA calculated by MassHealth due to “exceptional circumstances,” defined in relevant part as follows:

(1) Exceptional Circumstances. Exceptional circumstances exist when there are circumstances other than those already taken into account in establishing the maintenance standards for the community spouse under 130 CMR 520.026(B) and these circumstances result in significant financial duress. Since the federal standards used in calculating the MMMNA cover such necessities as food, shelter, clothing, and utilities, exceptional circumstances are limited to those necessities that arise from the medical condition, frailty, or similar special needs of the community spouse. Such necessities include, but are not limited to, special housing and extraordinary uncovered medical expenses. Such expenses generally do not include car payments, even if the car is used for transportation to medical appointments, or home-maintenance expenses such as security systems and lawn care.

The record in this case does not support a finding of “exceptional circumstances” resulting in significant financial duress; accordingly, there is no basis to increase the MMMNA. The community spouse did not present any evidence that she has additional necessities arising from her “medical condition, frailty, or similar special needs,” as the regulation requires. To the contrary, she lives in the community independently with no formal supports. As the spouse’s own income exceeds the MMMNA (both as originally calculated and once capped), there is no basis to award a spousal maintenance needs allowance as a further deduction from the PPA.¹

This appeal is denied.

Order for MassHealth

None.

¹ To the extent the spouse is arguing for a separate PPA deduction to account for the appellant’s own debts, there is no specific evidence of the nature of these expenses and, more importantly, no allowance in the regulation for such a deduction. See 130 CMR 520.026.

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 with Suffolk County Superior Court, within 30 days of your receipt of this decision.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Chelsea MEC