

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision: Approved

Appeal Number: 2200826

Decision Date: 3/03/2022

Hearing Date: February 23, 2022

Hearing Officer: Stanley M.
Kallianidis

Appellant Representative:



MassHealth Representative:

Keisha McMullen, Springfield



*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:	Approved	Issue:	Excess Assets
Decision Date:	3/03/2022	Hearing Date:	February 23, 2022
MassHealth Rep.:	Keisha McMullen	Appellant Rep.:	

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 January 28, 2022, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the household had excess assets (see 130 CMR 520.003, 520.016(B) and Exhibit 1). The appellant filed this appeal in a timely manner on February 3, 2022 (see 130 CMR 610.015 and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits.

Issue

The appeal issue is whether the appellant is entitled to have his community spouse's asset allowance increased in accordance with 130 CMR 520.017(C); and if so, would it be by such an amount so as to render him eligible for MassHealth?

Summary of Evidence

The MassHealth representative testified that the appellant's household had total countable assets of \$295,184.00 as of his requested eligibility date. The excess assets were determined to be \$155,784.00 after the household was allotted \$139,400.00. The MassHealth representative stated that the appellant applied on November 16, 2021 and needs assistance beginning January 13, 2022 (Exhibit 1).

The community spouse's minimum monthly maintenance needs allowance (MMMNA) was determined to be \$3095.00 (Exhibit 3). The community spouse's income was \$1271.00. The institutionalized spouse's income was \$843.00 (Exhibit 3).

The appellant's representative contended that the appellant's community spouse does not have sufficient income to provide her with the MMMNA and, therefore, is entitled to an increased asset allowance. At the hearing, the Bank Rate Monitor Index for money market accounts was noted to be 0.55%, and for 2 ½ year CDs it was 1.60% (Exhibit 3).

Findings of Fact

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

1. The appellant's household had \$295,184.00 in countable assets at the time of his requested eligibility date (Exhibit 1).
2. The appellant and his spouse were entitled to keep \$139,400.00 (Exhibit 1).
3. The household is \$155,784.00 over the asset limitation (Exhibit 1).
4. The appellant's spouse's MMMNA is \$3095.00 (Exhibit 3).
5. The community spouse's income, excluding interest, is \$1271.00 (Exhibit 3).
6. The appellant's countable income is \$843.00 (Exhibit 3).
7. The appellant's personal needs allowance (PNA) is \$72.80.
8. The income generated from \$10,000.00 of the community spouse's assets is \$4.00 using the Bank Rate Monitor Index for money market accounts (0.55%). From the community spouse's remaining assets, using the 2 ½ CD Bank Rate Monitor rate (1.60%), it is \$169.00. From the excess assets, using the same 2 ½ CD Rate it is \$207.00.

Analysis and Conclusions of Law

With regard to the community spouse's asset allowance adjustment, 130 CMR 520.017(C) provides:

If either spouse claims at a fair hearing that the amount of income generated by the community spouse's asset allowance as determined by the MassHealth agency is inadequate to raise the community spouse's income to the minimum monthly-maintenance-needs allowance, the fair-hearing officer determines the gross income available to the community spouse as follows.

(1) The fair-hearing officer determines the gross amount of income available to the community spouse. The fair-hearing officer includes the amount of the income that would be generated by the spouse's asset allowance if \$10,000 of the asset allowance were generating income at an interest rate equal to the deposit yield quoted in the Bankrate Monitor national index as of the hearing date for money market accounts, and if the remainder of the spouse's asset allowance were generating income at an interest rate equal to the highest deposit yield quoted in the Bank Rate Monitor national index as of the hearing date for any term not to exceed two and one-half years.

(2) If the community spouse's gross income under 130 CMR 520.017(C)(1) is less than the minimum-monthly-maintenance-needs allowance (MMMNA), then the fair-hearing officer allows an amount of income from the institutionalized spouse (after the personal-needs deduction described in 130 CMR 520.026(A)) that would increase the community spouse's total income to equal, but not to exceed, the MMMNA. 130 CMR 520.017(C)(2) applies to all hearings held on or after September 1, 2003, regardless of the date of application.

(3) If after the fair-hearing officer has increased the community spouse's gross income under 130 CMR 520.017(C)(1) and (2), the community spouse's gross income is still less than the MMMNA, then the fair-hearing officer increases the community spouse's asset allowance by the amount of additional assets that, if generating income at an interest rate equal to the highest deposit yield in the Bankrate Monitor national index as of the hearing date for any term not to exceed two and one-half years, would generate sufficient income to raise the income total to the MMMNA.

In the instant appeal, I have found that the appellant's community spouse has income of \$1271.00, exclusive of interest. I have also found that adding the income from her assets invested in the Bank Rate Monitor Index as described above results in total income of \$1444.00. Since this amount is less than the MMMNA of \$3095.00, the spouse is entitled to keep the appellant's income after the PNA deduction, as this totals \$2215.00. Furthermore, she is entitled to all of the excess assets as they produce only \$207.00 of the remaining \$880.00 shortfall from the MMMNA.

The appeal is therefore approved.

Order for MassHealth

Approve application as of requested eligibility date with \$0.00 PPA.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this notice, you should contact your local office. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc:

