

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2203335
Decision Date:	7/28/2022	Hearing Date:	06/15/2022
Hearing Officer:	Kenneth Brodzinski	Record Open to:	

Appearance for Appellant:



Appearance for MassHealth:

Lindsay Gallant



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

APPEAL DECISION

Appeal Decision:	DENIED	Issue:	PPA
Decision Date:	7/28/2022	Hearing Date:	06/15/2022
MassHealth's Rep.:	Lindsay Gallant	Appellant's Rep.:	Auth Rep
Hearing Location:	Taunton MEC		

Authority

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

Jurisdiction

Through notice dated March 30, 2022, MassHealth approved Appellant's application for MassHealth Long Term Care benefits and determined a Patient Paid Amount ("PPA") of \$897.59 (Exhibit A). Appellant filed this appeal in a timely manner on May 1, 2022 seeking an adjustment to the PPA (Exhibit A). Seeking an adjustment to MassHealth's determination of the PPA is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined Appellant's PPA.

Issue

The appeal issue is whether Appellant is entitled to an adjustment to the PPA.

Summary of Evidence

Both parties appeared by telephone. MassHealth submitted a copy of a worksheet with supporting documentation relative to monthly expenses (Exhibit B).

Along with the hearing request, Appellant filed documents related to monthly expenses (Exhibit A).

MassHealth was represented by an eligibility worker from the Taunton MassHealth Enrollment Center (MEC) who testified that MassHealth approved Appellant's application for Long Term Care benefits with a PPA of \$897.59. The MassHealth representative submitted a copy of a "Spousal Maintenance Needs Allowance" worksheet showing the figures and calculation used in reaching a Minimum Monthly Maintenance Needs Allowance (MMMNA) of \$3,045.25 for the Community Spouse (CS) and a PPA of \$897.59 for Appellant (Exhibit B).

Appellant's representative did not dispute the figures or calculations set forth in the worksheet (Id), but he did question the use of the gross income figures instead of the net. He testified that the CS is finding it difficult to financially maintain herself in the community without Appellant's full income. Appellant's representative testified that Appellant provided 55% of the household income and now the CS has to draw down her savings in order to meet her expenses. Appellant's representative further testified that while the CS does not drive, she pays others to take her to visit Appellant every day and often buys products for Appellant.

Appellant's representative asserted that the CS's rent recently increased by \$100.00 per month.

In response, the hearing officer instructed Appellant's representative to file documentation with MassHealth of the rental increase and MassHealth would adjust the figures accordingly. The hearing officer also reviewed the exceptional circumstances regulation with Appellant's representative who denied that the CS faces any such circumstances.

Findings of Fact

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

1. MassHealth approved Appellant's application for Long Term care benefits with a PPA of \$897.59.
2. MassHealth calculated an MMMNA of \$3,045.25 for the Community Spouse (CS) and a PPA of \$897.59 for Appellant using the figures and calculations set forth in the Spousal Maintenance Needs Allowance worksheet (Exhibit B).
3. The figures and calculations set forth in the Spousal Maintenance Needs Allowance

worksheet are accurate and correct (Id).

Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

MassHealth's Spousal Maintenance Needs Allowance Worksheet (Exhibit B), which was not disputed, shows that MassHealth correctly applied the calculation set forth at 130 CMR 520.526(B) in determining the CS's MMMNA of \$3,0454.25 and PPA of \$897.59.

The only exception to the standard calculation is described at 130 CMR 520.017(D)(1) which states that an increase in the community spouse's MMMNA may be granted based on "exceptional circumstances." According to the regulation, "[e]xceptional 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 520.025(B) and these circumstances result in significant financial duress." The regulation further states that "[s]ince 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 used for transportation to medical appointments, or home maintenance expenses such as security systems and lawn care."

At hearing Appellant's representative indicated that the CS does not have any expenses described under the "exceptional circumstance" regulation.

On this record, there is no basis in fact or law to alter MassHealth's determination. Appellant has not met his burden and the 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center,
21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616