

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2204552
Decision Date:	7/29/2022	Hearing Date:	7/22/2022
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Spouse

Appearance for MassHealth:
Elizabeth Landry, Taunton MEC



*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:	Patient Paid Amount
Decision Date:	7/29/2022	Hearing Date:	07/22/2022
MassHealth's Rep.:	Elizabeth Landry	Appellant's Rep.:	Spouse
Hearing Location:	Remote		

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 6/6/2022, MassHealth notified Appellant of a patient paid amount due (130 CMR 520.026 and Exhibit 1). Appellant filed this appeal in a timely manner 6/16/2022 (130 CMR 610.015(B) and Exhibit 2). Notice of a patient paid amount due is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant of a patient paid amount due.

Issue

The appeal issue is whether, pursuant to 130 CMR 520.026, MassHealth correctly calculated Appellant's Patient Paid Amount due.

Summary of Evidence

The Mass Health representative appeared by telephone and testified that an application for MassHealth long-term care benefits was submitted on Appellant's behalf on April 25, 2022, seeking eligibility effective April 16, 2022. The application was approved May 26, 2022, with a Patient Paid Amount (PPA) of \$1,703.20 which the MassHealth representative stated was calculated in error as it did not include a Family Maintenance Needs Allowance (FMNA) to account for Appellant's

granddaughter who is a minor and lives in the community home with the community spouse.¹ A corrected notice issued on 6/6/2022 notifying Appellant of a PPA of \$977.70 which included a FMNA allowance of \$725.50 and a \$72.80 Personal Needs Allowance (PNA), which were subtracted from Appellant's gross monthly income of \$1,776 per month, resulting in a \$977.70 PPA (Exhibit 1). The MassHealth representative reviewed the Minimum Monthly Maintenance Needs Allowance (MMMNA) calculation which includes \$2,444.9 for rent or mortgage and \$808.95 for taxes and insurance. MassHealth applied in the calculation the \$688 Food Stamp Utility Allowance to arrive at Total Shelter Expenses of \$3,941.85, which was then reduced by the \$653.25 Standard Deduction, and reflects the addition of a \$2,177.50 Federal Standard Maintenance Allowance (FSMA) to arrive at a MMMNA of \$5,466.10. The MassHealth representative testified that MassHealth regulations limit the MMMNA to a maximum amount of \$3,435 unless increased under 130 CMR 520.017(D) due to Exceptional Circumstances. Because the community spouse's \$4,900.89 per month income exceeds the \$3,435 maximum MMMNA, a Spousal Maintenance Needs Allowance (SMNA) was not allowed from Appellant's income and resulted in a \$977.70 PPA as required under 130 CMR 520.026.

The community spouse testified that her income is not sufficient to meet household expenses including costs for utilities, car payments and insurance, phone and internet services, and health and dental insurance, in addition to expenses related to providing for her granddaughter (Exhibits 5, 6).

Findings of Fact

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

1. An application for MassHealth long-term care benefits was submitted on Appellant's behalf on April 25, 2022, seeking eligibility effective April 16, 2022.
2. The application was approved May 26, 2022, with a Patient Paid Amount (PPA) of \$1,703.20 which was calculated in error as it did not include a Family Maintenance Needs Allowance (FMNA) to account for Appellant's granddaughter who is a minor and lives in the community home with the community spouse.
3. A corrected notice issued on 6/6/2022 with a PPA of \$977.70 which included a FMNA allowance of \$725.50 and a \$72.80 Personal Needs Allowance.
4. Appellant's gross monthly Social Security income is \$1,776 per month.
5. The community spouse's income is \$4,900.89 per month.
6. The Minimum Monthly Maintenance Needs Allowance (MMMNA) calculation includes \$2,444.90 for rent or mortgage and \$808.95 for taxes and insurance.

¹ The community spouse is the legal guardian of the granddaughter (Exhibit 2, pp. 16-17).

7. MassHealth included in the calculation the \$688 Food Stamp Utility Allowance to arrive at Total Shelter Expenses of \$3,941.85, which was then reduced by the \$653.25 Standard Deduction, and included \$2,177.50 Federal Standard Maintenance Allowance (FSMA) to arrive at a MMMNA of \$5,466.10.
8. MassHealth regulations limit the MMMNA to a maximum amount of \$3,435.
9. The community spouse verified expenses exceeding her income related to utilities, car payments and insurance, phone and internet services, and health and dental insurance, in addition to expenses related to providing for her granddaughter.

Analysis and Conclusions of Law

The Patient Paid Amount is the 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). Regulation 130 CMR 520.026 (A)-(E) outlines long-term care general income deductions that apply in the calculation of the Patient Paid Amount, which are limited to a Personal-Needs Allowance; Spousal-Maintenance Needs Deduction²; Deductions for Family-Maintenance Needs³, Deductions for the Maintenance of a Former Home, which only applies to

² Pursuant to 130 CMR 520.026(B), 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) \$2,177.50 (the federal standard maintenance allowance); and
- (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$653.25 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 \$421. If heat is not included in the rent or condominium fee, this amount is \$688.

(2) **The maximum-monthly-maintenance-needs allowance is \$3,435 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)** (emphasis added).

(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.

³ Pursuant to 130 CMR 520.026 (C):

(1) 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

individuals admitted to a skilled nursing facility on a short-term basis only, and are expected to return home within 6 months; and Deductions for Health-Care Coverage and Other Incurred Expenses, which are limited to necessary medical and remedial-care expenses, and expenses associated with Guardianship.

Regulation 130 CMR 520.017 (D): Adjustment to the Minimum-monthly-maintenance-needs Allowance Due to Exceptional Circumstances, allows the hearing officer discretion to increase the MMMNA due to Exceptional Circumstances defined below:

(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 remedial and support services 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.

(a) In determining an increased MMMNA, the fair-hearing officer ensures that no expense (for example, for food or utilities) is counted more than once in the calculation.

(b) If the community spouse lives in an assisted-living facility or similar facility and requests an increase in his or her minimum-monthly-maintenance-needs allowance, the fair-hearing officer reviews the housing agreement, service plan, fee schedule, and other pertinent documents to determine whether exceptional circumstances exist. Additional amounts are allowed only for specific expenses necessitated by exceptional circumstances of the community spouse and not for maintaining any pre-set standard of living.

spouse:

- (a) a minor child — a child younger than 21 years old of either member of the couple;
- (b) a dependent child — a child 21 years of age and older who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code;
- (c) a dependent parent — a parent of either spouse who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code; and
- (d) a dependent sibling — a brother or sister of either spouse (including a half-brother or half-sister) who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code.

(2) **The deduction for family-maintenance needs is $\frac{1}{3}$ of the amount by which the federal standard maintenance allowance exceeds the monthly gross income of the family member. The federal standard maintenance allowance is \$2,177.50 (emphasis added).**

In issuing the corrected notice dated 6/6/2022, MassHealth correctly calculated a \$725.50 Family Maintenance Needs Allowance for Appellant's minor grandchild living in the household, and a \$72.80 Personal Needs Allowance (PNA), which were subtracted from Appellant's gross monthly income of \$1,776 per month, resulting in a \$977.70 PPA. MassHealth correctly calculated the MMMNA which includes \$2,444.9 for rent or mortgage, and \$808.95 for taxes and insurance, and added the \$688 Food Stamp Utility Allowance to arrive at Total Shelter Expenses of \$3,941.85, which was reduced by the \$653.25 Standard Deduction, and added the \$2,177.50 Federal Standard Maintenance Allowance to arrive at a \$5,466.10 MMMNA. However, MassHealth is required by regulation to cap the MMMNA at \$3,435 (130 CMR 520.026(B)(2)).⁴ Because the community spouse's \$4,900.89 per month income exceeds the MMMNA, a Spousal Maintenance Needs Allowance (SMNA) was not allowed. Pursuant to 130 CMR 520.017(D)(1), I find that the bills and documentation submitted by the community spouse do not allow an increased MMMNA due to Exceptional Circumstances **arising from the medical condition, frailty, or similar special needs of the community spouse.**⁵ Therefore, MassHealth correctly calculated the \$977.70 Patient Paid Amount.

The appeal must be 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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA, 01876-1957

⁴ See fn. 2.

⁵ See Finding of Fact No. 9.