

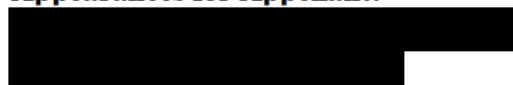
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2208372
Decision Date:	12/21/2022	Hearing Date:	12/08/2022
Hearing Officer:	Sara E. McGrath		

Appearances for Appellant:



Appearances for MassHealth:

Yous Khieu, Chelsea MassHealth



*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:	Patient-paid amount
Decision Date:	12/21/2022	Hearing Date:	12/08/2022
MassHealth Rep:	Yous Khieu	Appellant's Rep:	
Hearing Location:	Board of Hearings (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 October 31, 2022, MassHealth notified the appellant that he is eligible for MassHealth Standard benefits effective June 26, 2022, with a patient-paid amount of \$790.12 (Exhibit 1). The appellant filed this appeal in a timely manner on November 9, 2022 (130 CMR 610.015(B)). A challenge to the patient-paid amount is a valid ground for appeal (130 CMR 610.032(A)).

Action Taken by MassHealth

MassHealth notified appellant that he is eligible for MassHealth Standard benefits effective June 26, 2022, with a patient-paid amount of \$790.12.

Issue

The appeal issue is whether MassHealth correctly calculated the appellant's patient-paid amount.

Summary of Evidence

The MassHealth representative appeared at hearing by phone and testified in summary as follows: The appellant is a resident of a nursing facility and on July 11, 2022, he submitted a MassHealth application. On October 31, 2022, MassHealth approved appellant's application for MassHealth Standard benefits effective June 26, 2022, with a patient-paid amount of \$790.12 (Exhibit 1). The appellant's monthly income totals \$1,755.57. The appellant's patient-paid amount was calculated as follows: \$1,755.57 (the appellant's monthly income) - \$72.80 (personal needs allowance) - \$892.65 (spousal maintenance needs allowance (SMNA)) = \$790.12 (Exhibit 1).

The MassHealth representative explained that SMNA is the amount by which the community spouse's minimum monthly maintenance needs allowance (MMMNA) exceeds her gross income. Per 130 CMR 520.026, the spouse's MMMNA was calculated as follows: \$568.00 (shelter expense) - \$686.63 (standard deduction) = \$0.00 + \$2,288.75 (federal standard) = \$2,288.75 (Exhibit 3). The community spouse has total monthly income of \$1,396.10. The difference between these two figures (\$892.65) is the SMNA deduction described above.

The appellant's representative and the community spouse both appeared at hearing by phone. The appellant's representative disputed MassHealth's calculation of the spouse's MMMNA, arguing that MassHealth should have included the utility expense allowance of \$421, which would have increased her MMMNA and thus also increased the appellant's SMNA. The MassHealth representative responded, stating that because the spouse does not pay for any utilities, the utility expense allowance is not part of the MMMNA calculation. The appellant's representative argued that whether the spouse actually pays for utilities is not relevant. Rather, the applicable regulations mandate that if the spouse pays for heat, the higher utility expense allowance is used; if the spouse does not pay for heat, the lower utility expense allowance is used. Here, because the spouse does not pay for heat, MassHealth should have included the lower amount of \$421.

Findings of Fact

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

1. On July 11, 2022, the appellant submitted a MassHealth application seeking long-term care benefits.
2. On October 31, 2022 MassHealth approved appellant's application for MassHealth Standard benefits effective June 26, 2022, with a patient-paid amount of \$790.12.
3. The appellant's patient-paid amount was calculated as follows: \$1,755.57 (the appellant's monthly income) - \$72.80 (personal needs allowance) - \$892.65 (spousal maintenance needs allowance (SMNA)) = \$790.12.

4. The appellant's spouse's MMMNA was calculated as follows: \$568.00 (shelter expenses) - \$686.63 (standard deduction) = \$0.00 + \$2,288.75 (federal standard) = \$2,288.75. This calculation does not include any utility expense allowance.
5. The appellant's spouse's monthly income totals \$1,396.10.
6. The appellant's SMNA is the amount by which the spouse's MMMNA exceeds her gross income.
7. On November 9, 2022, the appellant timely appealed MassHealth's October 31, 2022 approval notice.

Analysis and Conclusions of Law

Under 130 CMR 519.006(A)(3), long-term care residents must "contribute to the cost of care" in accordance with the patient-paid amount regulation at 130 CMR 520.026. 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). This amount is the resident's income, minus certain deductions. Per 120 CMR 520.026, general income 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 other incurred expenses.

The disputed issue in this case is the spousal-maintenance-needs allowance (SMNA) deduction. As noted above, the SMNA deduction is the amount by which the MMMNA exceeds the community spouse's gross income (130 CMR 520.026(B)). Here, the parties dispute whether the spouse's MMMNA should include a utility expense allowance when she does not pay for any utilities.

Per 130 CMR 520.026(B)(1), the MassHealth agency determines the MMMNA by adding the following amounts:

- (a) \$1,822 (the federal standard maintenance allowance); and
- (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$547 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 \$375. If heat is not included in the rent or condominium fee, this amount is \$611.¹

¹ The 2022 updated figures are not reflected in the regulation. The utility expense figures have been

The appellant has not demonstrated that the standard deduction for utility expenses should be included in the spouse's MMMNA. Per 130 CMR 520.017(B), the minimum-monthly maintenance-needs allowance is the amount needed by the community spouse to remain in the community. This amount is based on a calculation that includes the community spouse's shelter and *utility costs* in addition to certain federal standards, in accordance with 130 CMR 520.026(B)(1) (emphasis added). Here, the appellant's spouse has conceded that she does not incur any utility costs. As such, she has not demonstrated that the utility allowance should be included in the calculation of her MMMNA. Thus, the appellant has not shown that MassHealth erred in its calculation of his SMNA or his patient-paid amount.

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.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: Chelsea MassHealth Enrollment Center

[REDACTED]

[REDACTED]

increased to \$421 and \$688.