

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2304949
<b>Decision Date:</b>	7/18/2023	<b>Hearing Date:</b>	07/17/2023
<b>Hearing Officer:</b>	David Jacobs		

**Appearances for Appellant:**



**Appearances for MassHealth:**  
Evelyn Daniel, Springfield 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-Term Care Patient-Paid Amount
<b>Decision Date:</b>	7/18/2023	<b>Hearing Date:</b>	07/17/2023
<b>MassHealth's Rep.:</b>	Evelyn Daniel, Springfield MEC	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	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 May 30, 2023, MassHealth notified the appellant that she was eligible for MassHealth Standard with a patient paid amount (PPA) of \$660.28, which included a \$140.46 allowance for spousal support (Exhibit 1). The appellant filed a timely appeal on June 16, 2023 (Exhibit 2). Determination of a change to a patient-paid amount is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that she was eligible for MassHealth Standard with a PPA of \$660.28, which included a \$140.46 allowance for spousal support.

### Issue

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

## Summary of Evidence

The MassHealth representative testified that the appellant, who is in a nursing facility, has a spouse living in the community. The appellant applied for long-term care benefits on March 23, 2023 and was approved on May 30, 2023. MassHealth calculated the appellant's patient-paid amount at \$660.28.

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 (Exhibit 7, pg. 7). The MMMNA is calculated as follows:

Shelter Expense	\$ 392.02
<u>Utility allowance</u>	<u>\$ 860.00</u>
Total shelter costs	\$ 1,252.02
Federal shelter standard	\$ 686.63
Excess shelter costs (\$1,252.02 - \$686.63)	\$ 565.39
Standard Maintenance Allowance	\$ 2,288.75
Total	\$ 2,854.14

(Exhibit 7, pg. 7)

As the community spouse has income of \$2,713.68 of his own, MassHealth calculated that he would require an additional \$140.46 of the appellant's income in order to meet his MMMNA of \$2,854.14 (Exhibit 7, pg. 7). In determining the appellant's monthly patient-paid amount (PPA), MassHealth allowed a deduction of \$140.46 from her income as a spousal maintenance needs allowance (SMNA) (Exhibit 7, pg. 7).

The community spouse appeared at the hearing and testified in summary as follows: He lives in a two-family home and is unable to pay his expenses each month with his current income and the spousal support MassHealth has allowed. He testified that there are several repairs that are needed around the home, and he does not have enough money to buy all the materials he needs to perform them. He is behind on payments for his heating. Furthermore, because he does not drive, he relies on food delivery services to receive his food and transportation services to visit his wife in the nursing home. The appellant representative requested that special note be made of his food delivery and transportation needs when considering whether he qualifies for increased spousal support. When asked if he had any exceptional medical expenses the spouse reported that he was not in assisted living, had not been recently hospitalized, and had no other exceptional medical bills.

## Findings of Fact

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

1. The appellant resides in a nursing facility. Her spouse lives in the community.
2. On March 23, 2023, the appellant applied for long-term care benefits.
3. On May 30, 2023, the appellant was approved for long-term care benefits. MassHealth calculated the appellant's patient-paid amount at \$660.28.
4. MassHealth calculated the community spouse's minimum monthly maintenance needs allowance as follows:

Shelter Expense	\$ 392.02
<u>Utility allowance</u>	<u>\$ 860.00</u>
Total shelter costs	\$ 1,252.02
Federal shelter standard	\$ 686.63
Excess shelter costs (\$1,252.02 - \$686.63)	\$ 565.39
Standard Maintenance Allowance	\$ 2,288.75
Total	\$ 2,854.14

5. The community spouse has income of his own in the amount of \$2,713.68 per month.
6. MassHealth determined that he would require an additional \$140.46 per month from the appellant's income to meet his MMMNA of \$2,854.14.
7. MassHealth deducted \$140.46 from the appellant's income as the spousal maintenance needs allowance.
8. The community spouse lives independently in the community.
9. The community spouse struggles to pay his monthly bills, needs to perform home repairs, and relies on food delivery services and transportation services to visit his wife because he does not drive.
10. The community spouse does not have additional expenses related to his health, frailty, or other special needs, that result in significant financial duress.

### **Analysis and Conclusions of Law**

At issue in this case is MassHealth's calculation of the appellant's spousal maintenance needs

deduction from her monthly patient-paid amount. The community spouse contends that an increase in the MMMNA beyond the regulatory limit is warranted. 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.

After reviewing the evidence and testimony presented at hearing, I conclude that the facts presented here do not rise to the level of “exceptional circumstances” resulting in significant financial duress, and therefore do not warrant an increase beyond the current MMMNA. The community spouse testified that he has regular ongoing expenses such as mortgage, home repair, insurance, food delivery, and transportation services. However, there is nothing to suggest that he has additional necessities arising from his “medical condition, frailty, or similar special needs,” as the regulation requires. The appellant representative asked for special consideration made for the appellant’s food delivery and transportation service needs. However, 130 CMR 520.017(D) specifically carves out car payments for medical transportation as not being considered special circumstances for the purposes of increasing spousal support. Here, it is found that the appellant’s food delivery and transportation service needs are similarly situated, and therefore not special circumstances as required by the regulation.

As there is no error in the MassHealth determination, this 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 with Suffolk County Superior Court, within 30 days of your receipt of this decision.

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David Jacobs  
Hearing Officer  
Board of Hearings

cc: Springfield MEC

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