

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2305551
<b>Decision Date:</b>	11/09/2023	<b>Hearing Date:</b>	08/29/2023
<b>Hearing Officer:</b>	Alexis Demirjian	<b>Record Open to:</b>	09/26/2023

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Katie LaDuke, Springfield MEC  
Kathleen Towle, Springfield 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Over 65; LTC; Spousal Support
<b>Decision Date:</b>	11/09/2023	<b>Hearing Date:</b>	08/29/2023
<b>MassHealth's Rep.:</b>	LaDuke Towle	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Telephonic	<b>Aid Pending:</b>	No

## 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 March 21, 2023, MassHealth notified the appellant that he was eligible for MassHealth Standard with a patient paid amount (PPA) of \$2,170.14 and did not include a spousal support allowance. (See Exhibit 3). The appellant filed this appeal on July 10, 2023. (see 130 CMR 610.015(B) and Exhibit 2).<sup>1</sup> Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth notified the appellant that he was eligible for MassHealth Standard with a PPA of \$2,170.14, which did not include an allowance for spousal support.

## Issue

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

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<sup>1</sup> The appeal is timely based on the protections that were put in place for the Public Health Emergency. Notices issued prior to the lifting of the PHE were allowed to be filed within 120 days of received. The Board of Hearings initially dismissed the appeal.

## Summary of Evidence

The MassHealth representative testified that the appellant who is in a nursing facility, has a spouse living in the community. The community spouse has a monthly income of \$5,962.81.

The appellant applies for long-term care benefits and was approved effective [REDACTED] 2023. MassHealth calculated the appellant's patient-paid amount at \$2,170.14.

The MassHealth representative submitted as evidence a copy of MassHealth's Minimum Monthly Needs Allowance (MMMNA) Worksheet, which shows the calculation of the amount of income the spouse requires (Exhibit 5, p.7). The MMMNA is calculated as follows:

Shelter/Mortgage Expense	\$2009.51
Utility Allowance	\$860
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Total Shelter Costs	\$2,869.51
Federal Shelter Standard	\$686.63
Excess Shelter Costs (\$2,869.51– 686.63)	\$2,182.88
Standard Maintenance Allowance	\$2,288.75
Total	\$4,471.63

(Exhibit 5, pg.7)

As the community spouse has an income of \$5,962.81 of her own, MassHealth calculated that she does not require any of the appellant's income to meet her MMMNA of \$4,471.63. (Exhibit 5, p.7)

The community spouse appeared at the hearing and testified in that cost of living including taxes is going up and that she has had medical issues that have caused her to increase spending. A record open period was allowed for the community spouse to produce documentation to support her testimony and provide evidence that she had exceptional circumstances that arise from the medical condition, frailty, or similar special needs of the community spouse.

During the record open period, the community spouse submitted pay stubs, a mortgage bill, tax bill and bills related to medical care co-pays for the community spouse.

The documentation submitted by the appellant spouse did not undermine the calculations made by MassHealth. The documentation related to medical expenses showed that over the course of

a year, the appellant had incurred \$2,587.22 related to co-pays for her medical expenses. Divided over a twelve-month period that cumulative expense would amount to \$215 per month.

## Findings of Fact

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

1. The appellant resides in a nursing facility. His spouse lives in the community.
2. The appellant was approved for long-term care benefits effective [REDACTED] 2023.
3. MassHealth calculated the appellant's patient-pay amount at \$2,170.14
4. MassHealth calculated the community spouse's minimum monthly maintenance needs allowance as follows:

Shelter/Mortgage Expense	\$2009.51
Utility Allowance	\$860
<hr/>	
Total Shelter Costs	\$2,869.51
Federal Shelter Standard	\$686.63
Excess Shelter Costs (\$2,869.51– 686.63)	\$2,182.88
Standard Maintenance Allowance	\$2,288.75
Total	\$4,471.63

5. The community spouse has an income of her own in the amount of \$5,962.81 per month.
6. The community spouse lives alone in the community.
7. The community spouse has expenses averaging \$215 dollars per month related to her own health care.

## Analysis and Conclusions of Law

At issue in this case is MassHealth's calculation of the appellant's spousal maintenance needs and the fact that MassHealth has determined that the community spouse is not entitled to a deduction based on her needs. The community spouse contends that she has expenses that require an

increase in the MMNA beyond the regulatory limit. 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 exists 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 care 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 rise to the level of “exceptional circumstances” resulting in significant financial duress, and therefore do not warrant an increase beyond the current MMMNA. While the community spouse did introduce an outstanding bill for her medical expenses, without any documentation related to what the community spouse’s medical condition is, whether it will be ongoing, or whether it will affect her ability to work, it is impossible for the hearing officer to conclude that these outstanding bills arise from a medical condition, frailty, or similar special needs of the community spouse.

For those reasons, 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 Suffolk County Superior Court, within 30 days of your receipt of this decision.

Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88  
Industry Avenue, Springfield, MA 01104, 413-785-4186