

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Dismissed in part;
Approved in part

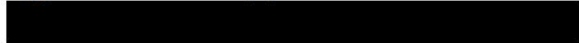
Appeal Number: 2306162

Decision Date: 09/18/2023

Hearing Date: 08/24/2023

Hearing Officer: David Jacobs

Appearances for Appellant:



Appearances for MassHealth:

Gloria Medeiros, Taunton 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

Appeal Decision:	Dismissed in part; Approved in part	Issue:	Long-Term Care Patient-Paid Amount
Decision Date:	09/18/2023	Hearing Date:	08/24/2023
MassHealth's Rep.:	Gloria Medeiros, Taunton MEC	Appellant's Rep.:	
Hearing Location:	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 July 14, 2023, MassHealth notified the appellant was eligible for MassHealth Standard with a patient-paid amount of \$7,716.05 and a spousal allowance of \$1,395.63 (Exhibit 2). The appellant filed a timely appeal on July 25, 2023 (Exhibit 3). Determination of a patient-paid amount is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that he was eligible for MassHealth Standard with a patient-paid amount of \$7,716.05 and a spousal allowance of \$1,395.63.

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 an assisted living condominium. The appellant applied for long-term care benefits on March 7, 2023 and was approved on February 23, 2023. MassHealth calculated the appellant's patient-paid amount (PPA) at \$7,716.05.

The appellant representative appeared at the hearing and contested the PPA. She testified that the appellant no longer qualified for a "Your Spending Arrangement" (YSA) reimbursement and submitted documents into the record supporting her testimony (Exhibit 10).

The MassHealth representative agreed with the appellant's argument based on the submitted evidence, calculated the appellant's new PPA as \$6,933.37, and submitted into evidence a copy of MassHealth's Minimum Maintenance Needs Allowance (MMMNA) Worksheet (Exhibit 6), which shows the calculation of the amount of income the spouse requires. The MMMNA, as most recently revised, is calculated as follows:

Rent/mortgage	\$ 0.00
Property taxes and insurance	\$ 815.82
Required condo/coop maintenance charge	\$ 0.00
Food Stamp Allowance	\$ 860.00
<u>Utility allowance</u>	<u>\$ 0.00</u>
Total shelter costs	\$ 1675.82
 Standard Shelter Expense	 \$ 739.50
Standard Maintenance Allowance	\$ 2,465.00
Spousal Income	\$ 1,903.69
 Total	 \$ 1,497.63

As MassHealth has conceded to the appellant's request for a different calculation of the appellant's income the appeal is considered dismissed as to this matter.

The appellant representative further testified that the community spouse has poor health and requires medication and personal care attendant (PCA) services in the home to assist with the activities of daily living. As such she is requesting an expansion of the spousal income amount to account for the cost of medication and the PCA services. After the hearing the appellant representative was asked to submit documentation showing the spouse's monthly costs for medication and PCA services as well as a doctor's letter stating whether the PCA services in the home are medically necessary. All requested documents were submitted. A document showing the spouse's prescription charges from September 5, 2022 to September 5, 2023 indicates that the appellant had \$794.05 out-of-pocket medication expenses during that year period (Exhibit 9). That averages to \$66.17 in monthly medication costs. She also submitted weekly PCA service bills for the month of August 2023 and testified that the spouse averages \$660.00 in weekly costs which

adds up to \$2,640.00 in monthly costs (Exhibit 8). The weekly bills range from \$649.00 to \$671.00 (Exhibit 8). Lastly, she submitted a letter from the spouse's primary care provider stating in part that "I believe she needs the services of a homemaker or[sic] personal care attendant to help with[sic] her activities of daily living" (Exhibit 7).

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. On March 7, 2023, the appellant applied for long-term care benefits.
3. On February 23, 2023, the appellant was approved for long-term care benefits. MassHealth calculated the appellant's patient-paid amount at \$7,716.05.
4. The appellant is no longer eligible for a YSA reimbursement which lowers his income.
5. The appellant's new calculated PPA amount is \$6,933.37.
6. MassHealth calculated the community spouse's minimum monthly maintenance needs allowance as follows in consideration of the appellant's new income calculation:

Rent/mortgage	\$	0.00
Property taxes and insurance	\$	815.82
Required condo/coop maintenance charge	\$	0.00
Food Stamp Allowance	\$	860.00
<u>Utility allowance</u>	<u>\$</u>	<u>0.00</u>
Total shelter costs	\$	1675.82
Standard Shelter Expense	\$	739.50
Standard Maintenance Allowance	\$	2,465.00
Spousal Income	\$	1,903.69
Total	\$	1,497.63

7. The appellant's has out-of-pocket monthly medication costs in the amount of \$66.17.
8. The appellant utilizes PCA services in her home that are required for the activities of daily living.
9. The appellant has monthly PCA service costs in the amount of \$2,640.00.

Analysis and Conclusions of Law

At issue in this case is whether pursuant to 130 CMR 520.017(D), the appellant's spouse qualifies to have her spousal allowance increased beyond the regulatory maximum 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 rise to the level of "exceptional circumstances" resulting in significant financial duress, and therefore do warrant an increase beyond the current MMMNA. The appellant representative submitted a persuasive letter from appellant's spouse's primary care provider stating that her medical condition requires PCA services to assist her with the activities of daily living. The necessity of the spouse using these services are found to be exceptional circumstances as described in 130 CMR 520.017(D). Furthermore, the weekly PCA service bills submitted into the record do support a finding of \$660.00 in average weekly PCA costs for total costs of \$2640.00 a month. The appellant's medication costs of \$66.17 are also found to be medically necessary as prescribed by her doctor. **Therefore, the spousal allowance will be increased from \$1,497.63 to \$4,203.80.**

The appeal is approved.

Order for MassHealth

Rescind notice dated July 14, 2023 and adjust patient-paid amount as set forth above.

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.

David Jacobs
Hearing Officer
Board of Hearings

cc: Taunton MEC

