

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403712
Decision Date:	6/27/2024	Hearing Date:	05/30/2024
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:



Appearance for MassHealth:

Jennifer Canizares, 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

Appeal Decision:	Denied	Issue:	Long Term Care; Patient Paid Amount
Decision Date:	6/27/2024	Hearing Date:	05/30/2024
MassHealth's Rep.:	Jennifer Canizares	Appellant's Rep.:	Pro se
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 January 4, 2024, MassHealth increased the appellant's spouse's¹ patient paid amount (PPA) from \$119.33 to \$329.03 per month starting on February 1, 2024. See 130 CMR 520.026 and Exhibit 1. The appellant filed this appeal in a timely manner on March 6, 2024. See 130 CMR 610.015(B) and Exhibit 2. MassHealth agency action to reduce a member's assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth increased the appellant's spouse's monthly patient paid amount to \$329.03 starting on February 1, 2024. See 130 CMR 520.017 and Exhibit 1.

Issue

Whether MassHealth was correct in determining the appellant's spouse's patient paid amount to the nursing facility. See 130 CMR 520.017(B); 130 CMR 520.017(D); 130 CMR 520.025; and 130 CMR 520.026.

¹ The appellant's spouse is the MassHealth member who lives in a nursing facility.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center. The appellant who was assisted by a representative from his spouse's nursing facility appeared pro se and verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant's spouse resides in a nursing facility and the appellant who is over the age of [REDACTED] lives in the community. The appellant's spouse applied for long-term care benefits on July 28, 2023. He was approved for long-term care on November 16, 2023, with the coverage start date of September 1, 2023. The MassHealth representative testified that the PPA was determined to be \$119.33 per month starting on September 1, 2023. According to MassHealth records, the spousal-maintenance-needs allowance (SMNA) was calculated to equal \$1,576.37 per month which included the appellant's shelter expenses of \$1,034.77 per month. The appellant's spouse's Social Security check was in the amount of \$1,768.50 per month. He was allowed a \$72.80 deduction from his income for his personal-needs allowance (PNA). Based on these figures, MassHealth calculated the PPA as follows:

Member's Income:	\$1,768.50
PNA:	(\$72.80)
SMNA:	<u>(\$1,576.37)</u>
PPA:	\$ 119.33

The MassHealth representative said that in January 2024, the appellant's spouse's Social Security check increased to \$1978.20 per month. Based on this increase the PPA was recalculated effective on February 1, 2024, as follows:

Member's Income:	\$1,978.20
PNA:	(\$72.80)
SMNA:	<u>(\$1,576.37)</u>
PPA:	\$ 329.03

Through the notice dated January 4, 2024, the appellant was notified of this increase in the PPA. The MassHealth representative stated that two subsequent notices have since been issued. A notice was issued on March 4, 2024 and another on April 18, 2024, further increasing the appellant's spouse's PPA. Those notices are not the subject of this instant appeal.

The appellant confirmed that he has received two subsequent notices further increasing his spouse's PPA. He stated that he is currently awaiting estimates for repairs to his home which will be the subject of the appeal from those subsequent notices further increasing the PPA. Regarding

the subject of the hearing on this appeal, the appellant verified the increase in his spouse's Social Security check but stated that he would like MassHealth to consider certain expenses in order to increase his minimum-monthly-maintenance allowance (MMMNA) and decrease his spouse's PPA. The appellant requested that the following four expenses be considered by MassHealth in order to reduce his spouse's PPA. A student loan payment in the amount of \$67.82 per month, for a student loan the appellant obtained for his two-year college degree. (Exhibit 5; p. 4) The appellant's insurance premium in the amount of \$110.87 per month, for dental and vision. (Exhibit 5; p. 7). The appellant's insurance premium for ambulance service in the amount of \$49.00 per month. (Exhibit 5; p. 6) The appellant's car payment in the amount of \$224.18 per month. (Exhibit 4). The appellant stated that dental and vision insurance is not covered by his Medicare insurance, and he was forced to buy a new car after his car was totaled due to no fault of his own.

After the hearing, a request was made to MassHealth for the production of the worksheet showing calculations for MMMNA and SMNA. (Exhibit 6). MassHealth submitted the requested worksheet showing calculations for MMMNA and SMNA as follows:

Shelter Expense:	\$ 1,304.77
<u>Utility Allowance:</u>	<u>\$ 852.00</u>
Total Shelter Expenses:	\$ 2,156.77
Standard Shelter Expense:	(\$739.50)
<u>Standard Maintenance Allowance:</u>	<u>\$ 2,465.00</u>
MMMNA	\$ 3,612.27

(Exhibit 7).

Since this amount does not exceed the standard MMMNA of \$3,853.50, and \$3,612.27 is the lesser amount, then MMMNA of \$3,612.27 is utilized for February 1, 2024.

Next, MassHealth calculated the SMNA by subtracting the appellant's (member's spouse's) income from the MMMNA:

<u>In-Community Spouse's Income:</u>	<u>(\$2,035.90)</u>
SMNA	\$ 1,576.37

Id.

Last, MassHealth arrived at the PPA for February 1, 2024, as follows:

Institutionalized Spouse's Income:	\$ 1,978.20
Standard Personal Needs Allowance:	(\$72.80)
SMNA	<u>(\$1,576.37)</u>
PPA	\$ 329.03

Id.

Findings of Fact

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

1. The appellant is the spouse of the MassHealth member. He is over the age of [REDACTED] and resides in the community. (Testimony).
2. On July 28, 2023, the appellant's spouse submitted a long-term nursing care facility application. (Testimony).
3. On November 16, 2023, MassHealth approved this application with a start date of September 1, 2023, with a PPA of \$119.33 per month. (Testimony).
4. Through a notice dated January 4, 2024, MassHealth notified the appellant that his spouse's PPA will increase to \$329.03 per month because of an increase in his spouse's Social Security check. (Testimony and Exhibit 1).
5. MassHealth calculated the increase in the PPA as follows:

Member's Income:	\$1,978.20
PNA:	(\$72.80)
SMNA:	<u>(\$1,576.37)</u>
PPA:	\$ 329.03

6. Based upon information provided by MassHealth for the notice dated January 4, 2024, the MMMNA was calculated to be \$ 3,612.27. (Exhibit 6).
7. Based upon information provided by MassHealth for the notice dated January 4, 2024, the SMNA was calculated to be \$1,576.37. (Testimony and Exhibit 6).
8. The appellant lives independently in the community and has an income of his own in the amount of \$2,035.90. (Exhibit 6).
9. The appellant filed this appeal in a timely manner on March 6, 2024. (Exhibit 1).
10. The increase in the member's Social Security check is not in dispute. (Testimony).

Analysis and Conclusions of Law

The MassHealth agency is responsible for the administration and delivery of health-care services to low and moderate-income individuals and couples. The MassHealth regulations at 130 CMR 515.000 through 522.000 provide the requirements for MassHealth eligibility for persons over age [REDACTED] institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act. See 130 CMR 515.002.

Pursuant to 130 CMR 520.017(D), after the institutionalized spouse has received notice of either approval or denial for MassHealth Standard, either spouse may appeal to the Office of Medicaid Board of Hearings the calculation of income available to the community spouse and request an increase in the MMMNA, based on exceptional circumstances, as defined in 130 CMR 520.017(D)(1). The appellant in this case is the spouse of an institutionalized member. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case.

The issue in this case is MassHealth's calculation of the PPA for the appellant's spouse. The appellant is seeking a reduction in the PPA by requesting that MassHealth increase the MMMNA by considering certain expenses of the appellant which he specified during the hearing.

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

- (a) the federal standard maintenance allowance²; and
- (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense³ 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 Food Stamp Program for utility expenses⁴.

² The Federal Standard Maintenance allowance utilized by MassHealth was \$2,465.00.

³ The Standard Shelter Expense deduction utilized by MassHealth was \$739.50.

⁴ The Supplemental Nutrition Assistance Program (SNAP) standard utilized by MassHealth was \$852.00.

The maximum MMMNA is \$3,853.50 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).

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.

Here, the appellant requested that his monthly car payment, insurance premium payment for dental and vision, insurance premium payment for ambulance service, and student loan payment be considered in calculating the MMMNA. MassHealth allows a deduction for current health insurance premiums or membership costs for the member. Additionally, after the member is approved for MassHealth, the MassHealth agency will allow deductions for the member’s necessary medical and remedial-care expenses. See 130 CMR 520.026(E)(1); 130 CMR 520.026(E)(2)(a). However, this regulation is not applicable to the appellant because he is not the member. MassHealth will only consider the member’s health insurance premiums and not those of the member’s spouse. Thus, none of the insurance premium payments enumerated by the appellant can be considered by MassHealth or Board of Hearings in calculating the MMMNA. The appellant’s car payment is also not an allowable deduction. In fact, the regulation specifically denies consideration for car payments. See 130 CMR 520.017(D)(1).

Lastly, the appellant did not present any evidence to suggest that he has additional necessities arising from his “medical condition, frailty, or similar special needs,” as the regulation requires. See [REDACTED] 390 Mass. 191, 200 (1983) (“[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings”).

For the foregoing reasons, 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.

Sharon Dehmand
Hearing Officer
Board of Hearings

[REDACTED]

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