

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in Part	<b>Appeal Number:</b>	2405111
<b>Decision Date:</b>	7/1/2024	<b>Hearing Date:</b>	04/16/2024
<b>Hearing Officer:</b>	Mariah Burns	<b>Record Open to:</b>	04/26/2024

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Jenny Chan, Quincy MassHealth Enrollment  
Center



*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>	Approved in Part	<b>Issue:</b>	Patient-Paid-Amount; Spousal Maintenance Needs Allowance; MMMNA
<b>Decision Date:</b>	7/1/2024	<b>Hearing Date:</b>	04/16/2024
<b>MassHealth's Rep.:</b>	Jenny Chan	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<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, 2024, MassHealth notified the appellant that her institutionalized spouse's patient paid amount (PPA) would be increasing from \$4938.20 to \$4978.60 with an effective date of April 1, 2024. *See* 130 CMR 520.025 and Exhibit 1. The appellant filed this appeal in a timely manner on April 1, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging of a PPA and a request for an adjustment to the spousal minimum monthly maintenance needs allowance (MMMNA) are valid grounds for an appeal. *See* 130 CMR 610.032; *see also* 130 CMR 520.017.

### Action Taken by MassHealth

MassHealth increased the appellant's spouse's PPA and did not allocate a spousal maintenance needs allowance.

### Issue

The appeal issue is whether MassHealth correctly found that the appellant is not entitled to a

spousal maintenance needs allowance deduction from her institutionalized spouse's PPA.

## Summary of Evidence

The appellant is an adult whose spouse is currently institutionalized in a skilled nursing facility. MassHealth was represented by a worker from the Quincy MassHealth Enrollment Center. The following is a summary of all evidence provided at hearing and during the record open period.

In determining whether the appellant is entitled to a Spousal Maintenance Needs Allowance (SMNA) deduction to her spouse's PPA, MassHealth first calculated the appropriate MMMNA. In so doing, MassHealth confirmed the appellant's monthly mortgage payment to be \$1576.72<sup>1</sup>, her taxes and insurance to be \$627.00 per month, and that her heat is not included in her mortgage payment. When adding the SNAP utility allowance of \$860.00, MassHealth determined that the appellant's total shelter expenses are \$3063.72. The regulatory standard shelter expense of \$739.50 was then deducted, leaving \$2324.22. MassHealth then added the Federal Standard of \$2465.00, equaling a total MMMNA of \$4789.22. Because this amount is more than the Maximum Monthly Maintenance Needs Allowance (max MMNA) of \$3853.50, as set by the regulations, MassHealth used the lower of the two figures to determine whether the appellant was entitled to a deduction.<sup>2</sup>

MassHealth then calculated the appellant's income, relying on pay stubs she submitted. The paystubs reflected a total weekly gross income of \$1027.50, and when multiplied by 4.333, MassHealth determined that the appellant's gross monthly income is \$4450.85. Because that amount exceeds the max MMNA, MassHealth determined that the appellant is not entitled to a spousal maintenance deduction from her spouse's PPA.

The appellant testified that MassHealth did not properly calculate her income because she works as a school security guard, and only during the school year. She reported that she does not get paid during the summer months. She believes she should be entitled to a spousal maintenance deduction if her income were properly calculated. The record was kept open for her to provide an updated pay stub and verification from her employer as to how many weeks out of the year she works. On April 19, 2024, she provided those documents. The MassHealth representative was then able to re-calculate the appellant's income. The appellant's pay stub reflects a weekly gross income of \$920, and a letter from her employer confirms that she works only 42 weeks out of the year. Thus, the MassHealth worker multiplied \$920 by 42 weeks and divided that number by 12 to calculate an average monthly gross income of \$3220.00.

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<sup>1</sup> MassHealth initially calculated the appellant's mortgage payment to be \$1485.00. At hearing, the appellant reported that her mortgage payment is \$1576.72. For simplicity's sake, this decision will reference the updated figures in determining the appellant's shelter expenses.

<sup>2</sup> The updated mortgage payment had no effect on the outcome of MassHealth's MMMNA calculation.

Because the appellant's newly calculated income is less than the max MMNA, MassHealth subtracted the appellant's income from the max MMNA, leading to an SMNA of \$633.50 and a subsequent adjustment to her spouse's PPA to reflect that deduction. The appellant provided further argument that she has additional unaccounted for expenses, including her heating bill which, she reports, is more than \$860 per month.

## Findings of Fact

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

1. The appellant has a spouse who is a current MassHealth member and resident of a long-term care skilled nursing facility. Testimony, Exhibit 1.
2. On March 21, 2024, MassHealth informed the appellant that her spouse's patient paid amount (PPA) would be increasing from \$4938.20 to \$4978.60 on April 1, 2024. Exhibit 1. This amount did not account for a spousal maintenance needs allowance deduction from the appellant's spouse's income. *Id.*
3. The appellant filed a timely request for fair hearing on April 1, 2024. Exhibit 2.
4. The appellant has a "total shelter expense" of \$3063.72, consisting of a monthly mortgage payment of \$1576.72, real estate taxes and insurance costs of \$627.00, and the standard food stamp utility allowance of \$860.00. Exhibit 6 at 21.
5. After subtracting the standard federal shelter expense of \$739.50, the appellant has an "excess shelter expense" of \$2324.22. Exhibit 6 at 21.
6. MassHealth appropriately added the appellant's excess shelter expense of \$2324.22 with the minimum federal standard maintenance allowance of \$2465.00 to arrive at a total minimum monthly maintenance needs amount of \$4789.22. Exhibit 6 at 21.
7. Because \$4789.22 exceeds the cap on the minimum monthly maintenance needs allowance, MassHealth used the maximum figure of \$3853.50 as the appellant's MMMNA. Exhibit 6 at 21.
8. The appellant has a gross monthly income of \$3220.00. Exhibit 6 at 11-12, 21.
9. Using her income alone, the community spouse had a monthly shortfall of \$633.50 to meet her MMMNA. Exhibit 6 at 21.

## Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged ■ or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over ■ years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

Long-term care residents over the age of 65 may establish eligibility for MassHealth Standard coverage of their care if they meet the following requirements:

- (1) be younger than ■ age or older...
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment...
- (3) *contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;*
- (4) have countable assets of \$2,000 or less for an individual... and
- (5) not have transferred resources for less than fair market value...

130 CMR 519.006(A) (emphasis added). That contribution to the cost of care is known as the Patient-Paid Amount (PPA). See 130 CMR 515.001. It is calculated by deducting certain costs listed at 130 CMR 520.026 from the member's monthly countable income. 130 CMR 520.009(A)(3). Those deductions include the following:

- The standard Personal-needs Allowance of \$72.80. 130 CMR 520.026(A);
- The spousal-maintenance needs deduction if the member has a community spouse. *Id.* at 520.026(B);
- Deductions for family maintenance needs if the member has a minor child, a dependent child, a dependent parent, or a dependent sibling who resides with the community spouse. *Id.* at 520.026(C);
- Deductions for maintenance of a former home. *Id.* at 520.026(D);
- Deductions for Health-care Coverage and other incurred expenses, including guardianship fees. *Id.* at 520.026(E).

The spousal allowance (or SMNA) is the amount that MassHealth deducts from the institutionalized spouse's countable income when the community spouse has a shortfall in meeting his or her minimum monthly maintenance needs allowance (MMMNA). *Id.* The MMMNA is defined as the amount needed by the community spouse to remain in the community and is

based on a calculation that includes the spouse's shelter and utility costs and certain federal standards incorporated into regulation. See 130 CMR 520.017(B). If the community spouse's gross income is less than their MMMNA, MassHealth may deduct a spousal allowance from the institutionalized spouse's countable-income amount to meet this need. See 130 CMR 520.026(B).

Pursuant to 130 CMR 520.026(B), MassHealth determines the appropriate MMMNA by selecting **the lesser of** the following two figures: either (1) the maximum monthly maintenance needs allowance set by federal standards at \$3853.50,<sup>3</sup> **or** (2) the actual spousal monthly maintenance needs which is determined by adding the following amounts:<sup>4</sup>

- (a) [\$2465.00] (the minimum monthly maintenance needs allowance); and
- (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of [\$739.50] 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 expenses...If heat is not included in the rent or condominium fee, this amount is [\$850].

See 130 CMR 520.026(B)(1).

Using this formula, MassHealth properly found that the appellant had actual monthly maintenance needs amount of \$4789.22. Because this amount exceeded the regulatory limit, MassHealth appropriately used the maximum maintenance needs standard of \$3853.50 as the appellant's MMMNA. After the record open, MassHealth recalculated the appellant's gross monthly income to be \$3220.00, which now leaves her with a shortfall of \$633.50 in meeting her MMMNA. Accordingly, the appellant is entitled to an SMNA, and MassHealth should, if it has not already, adjust the appellant's spouse's PPA to reflect this deduction.

The appellant's argument that her actual water bill and other expenses should be included in the spousal allowance calculation is without merit, as 130 CMR 520.026(B)(1) clearly states what expenses are included and how. Thus, I find that the March 21, 2024, notice was issued in error

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<sup>3</sup> This figure was obtained from the federal *2024 SSI and Spousal Impoverishment Standards*, published by the Centers for Medicare & Medicaid Services (CMS), and was in effect at all relevant times for purposes of this appeal.

<sup>4</sup> The figures cited in MassHealth's publication of 130 CMR 520.026(B) do not reflect the updated and current federal standards. For clarity, this Decision has incorporated all applicable figures as set forth by CMS in its *2024 SSI and Spousal Improvement Standards* and those cited via MassHealth publication *Non-MAGI Financial Information Job Aid*. All such figures were appropriately used in MassHealth's calculation in determining the SMNA and are entered into evidence as Exhibit 6 at 21.

and should have included a spousal maintenance needs deduction from the appellant's spouse's income.

For the foregoing reasons, the appeal is hereby APPROVED in part.

## **Order for MassHealth**

Adjust the appellant's spouse's PPA to include a spousal maintenance needs deduction from his income of \$633.50, retroactive to April 1, 2024.

## **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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Mariah Burns  
Hearing Officer  
Board of Hearings

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171