

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2415493
Decision Date:	1/29/2025	Hearing Date:	11/06/2024
Hearing Officer:	Kenneth Brodzinski	Record Open to:	12/06/2024

Appearance for Appellant:



Appearance for MassHealth:

Kristina Trout



*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>	PPA – Exceptional Circumstances
<b>Decision Date:</b>	1/29/2025	<b>Hearing Date:</b>	11/06/2024
<b>MassHealth’s Rep.:</b>	Kristina Trout	<b>Appellant’s Rep.:</b>	Community Spouse
<b>Hearing Location:</b>	Springfield MEC		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through notice dated October 1, 2024, MassHealth approved Appellant’s application for MassHealth Long Term Care benefits and determined a Patient Paid Amount (“PPA”) of \$3,010.33 (Exhibit A). MassHealth issued a second notice dated October 2, 2024 increasing the PPA to \$3,048.33 effective October 1, 2024 (Id). Appellant filed for this appeal in a timely manner on October 7, 2024 seeking a reduction in the PPA (Exhibit A). Seeking an adjustment to MassHealth’s determination of the PPA constitutes valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined Appellant’s PPA.

### Issue

The appeal issue is whether the controlling regulation(s) and accurate facts direct that Appellant’s PPA should be reduced.

## Summary of Evidence

Both parties appeared by telephone. At hearing, MassHealth submitted a packet of documents that included (inter alia) copies of the PPA calculation worksheet and supporting financial documentation (collectively, Exhibit B).

The MassHealth representative testified that MassHealth approved Appellant's application for Long Term care benefits with a monthly PPA of \$3,010.33 commencing June 1, 2024. The PPA was then increased to \$3,048.33 as of October 1, 2024 due to a small change in Appellant's financials. The MassHealth representative submitted a copy of a "Maintenance Needs Allowance" worksheet showing the figures and calculation used in reaching a Minimum Monthly Maintenance Needs Allowance (MMMNA) for the Community Spouse (CS) and the PPA (Exhibit B).

Appellant's representative appeared with the CS. They did not dispute the figures and calculations cited by the MassHealth representative. Appellant's representatives asserted that the CS does not have sufficient income to maintain herself in the community and asked that the PPA be reduced so she could retain more of Appellant's income. Appellant referenced the need for some home repairs including plumbing modifications and a new toilet.

The hearing officer explained that in the absence to any challenge to the figures and calculations that MassHealth used in reaching its determinations, the only way to reduce the PPA would be for the CS to document that she is facing "exceptional circumstances" (as defined by regulation) that are causing her significant financial duress. The hearing officer explained what constitutes "exceptional circumstances". The hearing officer advised Appellant's representative that they could request that the record be held open so that they could submit evidence of "exceptional circumstances". Appellant asked for the record to be left open for this purpose.

The hearing officer further explained that the CS would need to file an itemization of all of her monthly expenses along with documents verifying the existence and amounts of these expenses. The CS would also need to verify the need and costs for any special expenditures such as necessary home repairs or health related modifications. These were to be combined in one submission and filed with the Board of Hearings to the hearing officer's attention on or before December 6, 2024.

As of the close of business on December 6, 2024, and the date of this decision, neither Appellant nor his representatives have filed any documentation with the Board of Hearings, nor have they requested additional time to make such a filing.

## Findings of Fact

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

1. MassHealth approved Appellant's application for Long Term care benefits with a monthly PPA of \$3,010.33 commencing June 1, 2024.
2. The PPA was then increased to \$3,048.33 as of October 1, 2024 due to a small change in Appellant's financials.

## Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)). Appellant has not met his burden.

MassHealth's Maintenance Needs Allowance Worksheet (Exhibit B), which was not disputed, shows that MassHealth correctly applied the calculation set forth at 130 CMR 520.526(B) in determining the CS's MMMNA and Appellant's PPA's since June 2024.

The only exception to the standard calculation is described at 130 CMR 520.017(D)(1) which states that an increase in the community spouse's MMMNA may be granted based on "*exceptional circumstances.*" According to the regulation, "*[e]xceptional 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 520.025(B) and these circumstances result in significant financial duress.*" The regulation further states that "*[s]ince 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 used for transportation to medical appointments, or home maintenance expenses such as security systems and lawn care.*"

At hearing, Appellant's representative's request to leave the record open so that they could document "exceptional circumstances" was allowed, yet they failed to make any post-hearing submission. Accordingly, on this record, which contains no challenge or dispute to the figures and calculations cited by MassHealth at hearing, there is basis in law and/or fact to disturb MassHealth's determinations.

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.

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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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