

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2416559
Decision Date:	02/28/2025	Hearing Date:	12/09/2024
Hearing Officer:	Christopher Jones	Record Open to:	01/06/2025

Appearance for Appellant:



Appearance for MassHealth:

Scarlis Javier



*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; Minimum Monthly Maintenance Needs Allowance (MMMNA)
Decision Date:	02/28/2025	Hearing Date:	12/09/2024
MassHealth's Rep.:	Scarlis Javier	Appellant's Rep.:	
Hearing Location:	Telephonic	Aid Pending:	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 October 17, 2024, MassHealth changed the institutionalized spouse's patient-paid amount from \$1,926.90 to \$1,927.20. (Exhibit 1; 130 CMR 520.025; 520.026.) The appellant filed this appeal in a timely manner on October 25, 2024. (Exhibit 1; 130 CMR 610.015(B).) The Board of Hearings initially dismissed this appeal for lack of authority, and, on November 8, 2024, the community spouse submitted the documentation proving she was her spouse's power of attorney. (Exhibits 2; 3.) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

Following the hearing, the record was left open until January 6, 2025, for the community spouse to submit proof of exceptional circumstances resulting in significant financial duress.

Action Taken by MassHealth

MassHealth recalculated the institutionalized spouse's patient-paid amount.

Issue

The appeal issues are whether (1) MassHealth correctly calculated the institutionalized spouse's

patient-paid amount, and by extension the community spouse's spousal-maintenance-needs deduction, pursuant to 130 CMR 520.026; and (2) whether the community spouse has exceptional circumstances that result in significant financial duress.

Summary of Evidence

MassHealth's representative testified that the institutionalized spouse had been approved for long-term-care benefits, effective April 1, 2024. MassHealth's representative believed that the appealed notice was generated based upon a cost-of-living adjustment to one of the institutionalized spouse's sources of income. The institutionalized spouse receives net Social Security benefits in the amount of \$2,679 after his Medicare premium is deducted, and a gross monthly pension of \$2,028.50 per month. MassHealth calculated the patient-paid amount ("PPA") by allowing deductions of \$72.80 for a personal-needs allowance ("PNA") and \$2,707.50 for a spousal-maintenance-needs deduction ("SMND").

MassHealth's representative submitted two print screens from a computer system showing how the SMND was calculated. The community spouse pays a monthly mortgage of \$1,190.38, monthly homeowners insurance costs of \$134.66, and monthly real estate taxes of \$443.89. The community spouse pays for her own utilities. MassHealth calculated the community spouse's minimum-monthly-maintenance-needs allowance ("minimum-MMNA") to be \$4,447.43, using a standard utility allowance of \$890, deducting a standard shelter expense of \$766.50, and adding back a federal standard maintenance allowance of \$2,555. This minimum-MMNA was greater than the regulatory maximum-MMNA of \$3,853.50. The community spouse receives gross income of \$1,146 per month from Social Security. MassHealth deducted the community spouse's gross income from the maximum-MMNA to determine the SMND of \$2,707.50.

In order for MassHealth to use the appellant's actual minimum-MMNA, which is in excess of the regulatory maximum of \$3,853.50, the community spouse must have exceptional circumstances that are causing her financial duress. The community spouse testified that she had a bad back and has diabetes. The community spouse also lives with her daughter who has a medical condition and is on Social Security Disability. The community spouse confirmed that her daughter is not a dependent, though they live together. The community spouse testified that she goes to the orthopedist and endocrinologist every three months, and with her daughter's appointments, she spends a lot of time and money going to doctor appointments. Her car payment is \$791 per month, and she and her daughter spend between \$700 and \$900 per month on groceries. The community spouse testified she cannot afford her medical supplies between the insulin, migraine medication, and adult absorbent products. She also testified that she had cataracts and anticipated requiring eye surgery and dental care that would be very costly.

The appellant asked that the record be left open to submit a doctor's letter documenting her medical conditions and the high expenses she has related to her medical conditions. The record was left open until January 6, 2025, for her to do so, but nothing was submitted.

Findings of Fact

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

1. The institutionalized spouse was approved for long-term-care benefits effective April 1, 2024. (Testimony by MassHealth's representative.)
2. On October 17, 2024, MassHealth issued a new notice recalculating the institutionalized spouse's PPA, which implicitly relies upon the calculation of the community spouse's SMND. Monthly, the institutionalized spouse receives net Social Security benefits of \$2,679 and a gross monthly pension of \$2,028.50 per month. The community spouse receives gross Social Security benefits in the amount of \$1,146. (Testimony by MassHealth's representative; Exhibits 1; 7.)
3. The community spouse has a mortgage of \$1,190.38, and other monthly housing expenses of \$443.89 per month in real estate taxes and \$134.66 per month in homeowner's insurance. She also pays for her own heat and electricity, for which MassHealth used the utility allowance of \$890. MassHealth used a standard housing deduction of \$766.50 and the Federal Standard Maintenance Allowance of \$2,555. (Testimony by MassHealth's representative; Exhibit 7.)
4. The hearing record was left open for the community spouse to submit evidence regarding exceptional circumstances resulting in financial duress. Nothing was submitted. (Exhibit 6.)

Analysis and Conclusions of Law

To determine a member's PPA, MassHealth regulations require that deductions be made from the member's income "in the following order: a personal-needs allowance; a spousal-maintenance-needs allowance; a family-maintenance-needs allowance for qualified family members;¹ a home-maintenance allowance; and health-care coverage and incurred medical and remedial-care expenses." (130 CMR 520.026.) The amount for the personal-needs allowance is set at \$72.80. (Id.)

If the community spouse's income is insufficient to meet their monthly expenses, the SMND allows the community spouse to keep some of the institutionalized spouse's income to pay for necessities. The SMND "is the amount by which the minimum-monthly-maintenance-needs allowance exceeds the community spouse's **gross** income." (130 CMR 520.026(B) (emphasis added).)

¹ The community spouse is not entitled to a family-maintenance-needs allowance despite living with a disabled child, because the appellant's daughter is not claimed as a dependent. (130 CMR 520.026(C).)

(1) The MassHealth agency determines the [minimum-]MMNA by adding the following amounts:

(a) \$[2,555.00²] (the federal standard maintenance allowance); and

(b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$[766.50] 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 Supplemental Nutrition Assistance Program for utility expenses. If heat is included in the rent or condominium fee, this amount is \$[520]. If heat is not included in the rent or condominium fee, this amount is \$[852].

(2) The maximum-monthly-maintenance-needs allowance 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).**

(3) If the institutionalized individual is subject to a court order for the support of the community spouse, the court-ordered amount of support must be used as the spousal-maintenance needs deduction when it exceeds the spousal-maintenance-needs deduction calculated according to 130 CMR 520.026(B) or resulting from a fair hearing.

(130 CMR 520.026(B) (emphasis added).)

(D) Adjustment to the Minimum-monthly-maintenance-needs Allowance Due to Exceptional Circumstances. 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).

² The adjusted numbers inserted into this quotation are applicable as of July 1, 2024. (See Centers for Medicare & Medicaid ("CMS") Informational Bulletin from May 22, 2024, available at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib05222024.pdf>; "Helpful Charts and Figures—SNAP," available at <https://eohhs.ehs.state.ma.us/DTA/PolicyOnline/olg%20docs/guides/Helpful%20Charts%20and%20Figures.pdf> (last visited February 4, 2025).)

(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 remedial and support services** 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.

(a) In determining an increased MMMNA, the fair-hearing officer **ensures that no expense (for example, for food or utilities) is counted more than once in the calculation**.

...

(2) Determination of Increase for Exceptional Circumstances. If the fair-hearing officer determines that exceptional circumstances exist, the fair-hearing officer **may increase the community spouse's MMMNA to meet the expenses caused by the exceptional circumstances** as follows.

...

(b) The fair-hearing officer determines the revised MMMNA by including in the calculation the amount needed to meet the exceptional circumstances.

(c) The fair-hearing officer compares the revised MMMNA to the community spouse's total income. If the community spouse's total income is less than the amount of the revised MMMNA, the fair-hearing officer first deducts the personal-needs allowance from the institutionalized spouse's countable-income amount and then a spousal-maintenance-needs deduction needed to reach the revised MMMNA.

(130 CMR 520.017(D) (emphasis added).)

The community spouse alleged exceptional circumstances existed that warranted revising the maximum-MMNA, but no evidence was submitted during the record open period. Without additional evidence, I cannot find that MassHealth's PPA calculation would result in significant financial duress to the community spouse. MassHealth correctly calculated the PPA of \$1,927.20 pursuant to MassHealth regulations. Therefore, this appeal must be 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.

Christopher Jones
Hearing Officer
Board of Hearings



MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290