

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2504300
<b>Decision Date:</b>	6/10/2025	<b>Hearing Date:</b>	04/18/2025
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Patricia Lemke, 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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Eligibility; Excess Assets
<b>Decision Date:</b>	6/10/2025	<b>Hearing Date:</b>	04/18/2025
<b>MassHealth's Rep.:</b>	Patricia Lemke	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center Room 2 (Remote)	<b>Aid Pending:</b>	Yes

### 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 February 26, 2025, MassHealth denied the appellant's application for MassHealth benefits because it determined that he had countable assets that exceeded program limits (130 CMR 520.016(B); Exhibit 8, pp. 2-6). The February 26<sup>th</sup> notice further informed the appellant that he was approved for the Medicare Savings Program, Qualified Medicare Beneficiary (QMB) benefits (Exhibit 8, p. 3). Through a separate notice dated March 7, 2025, MassHealth notified the appellant that his benefits were being downgraded from Medicare Savings Program, QMB to the Medicare Savings Program, Specified Low Income Medicare Beneficiary (SLMB) because it determined that he is over the income and asset limit (Exhibit 1). The notices were consolidated, and a fair hearing was held on April 18, 2025 (Exhibit 5). Denial of assistance and a request for an adjustment to the community spouse asset allowance are both valid grounds for appeal (130 CMR 520.017; 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits because it determined

that his countable assets exceeded program limits.

## Issue

The issues on appeal are (1) whether MassHealth was correct in determining that the appellant's assets exceeded program limits, and (2) whether the appellant qualifies for an adjustment to the asset allowance.

## Summary of Evidence

A MassHealth eligibility representative appeared at the hearing via telephone and testified as follows: The appellant is over the age of [REDACTED] and he is a current resident of a skilled nursing facility. On December 31, 2024, MassHealth received an application on behalf of the appellant seeking coverage of long-term care benefits effective January 23, 2025. The appellant has a community spouse. On February 26, 2025, MassHealth denied the appellant's application because it determined that he had countable assets that exceeded program limits (Exhibit 8, pp. 2-6).

The MassHealth representative provided a detailed outline of the various asset amounts held by the appellant and his spouse, which total \$211,281.43 (Exhibit 8, p. 19). From the total asset amount, MassHealth subtracted the community spouse resource allowance (CSRA) of \$157,920.00 and the appellant's asset allowance of \$2,000. *Id.* After the deductions, MassHealth concluded that the appellant had excess assets in the amount of \$51,361.43, rendering him ineligible for benefits. The MassHealth representative explained that it calculated a minimum monthly maintenance needs allowance (MMMNA) for the community spouse of \$2,678.

An attorney for the appellant appeared at hearing via telephone. The attorney did not dispute the asset figures presented by MassHealth or its conclusion that the appellant had excess assets at the time of the denial. Rather, the attorney argued that the appellant is entitled to keep all the excess assets. The income generated by these assets will help to meet her MMMNA, which would render the appellant eligible for long-term care benefits. The appellant received a Spousal Notice Supplement dated March 10, 2025 from MassHealth, indicating that he may be able to retain assets in excess of the MassHealth limit in order to bring the community spouse's income up to a level necessary to meet her MMMNA (Exhibit 7).

The attorney argued that the community spouse is unable to meet her MMMNA with all income sources available (Exhibit 6, p. 1). The spousal monthly income available includes the community spouse's social security income of \$1,204, the spouse's pension of \$280.36, the appellant's social security income of \$161, the appellant's pension of \$505.15, and the potential income of \$157.33 per month that could be generated by interest earned on the standard asset allowance. *Id.* The interest income is explained as follows - according to figures obtained via the

Bank Rate Monitor Index, the deposit yield for a money market account as of the hearing date was .39% and the highest deposit yield quoted for any term not to exceed 2½ years was a certificate of deposit (CD) with a term of 2½ years at 1.25% (Exhibit 6, p. 2). Applying these rates to the standard \$157,920 CSRA, the community spouse would generate \$3.25 per month if the first \$10,000 was held in a money market account, and an additional \$154.08 generated per month if the remaining \$147,920 were held in a CD. Thus, the total interest that the community spouse could earn from investing her standard asset allowance would still result in a monthly shortfall.

The appellant's attorney requested that the hearing officer increase the CSRA limit by the amount of additional assets that would generate sufficient income to remedy, or reduce, the community spouse's shortfall in meeting her MMMNA (Exhibit 6). The attorney explained that even if the community spouse were to retain the entire excess asset amount as part of the CSRA and invest it in a CD with a 1.25% interest rate, this investment would only generate an additional \$53.50 per month, and the community spouse would still experience a shortfall. Therefore, she argued that the CSRA may be increased by the entire amount of excess assets.

## Findings of Fact

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

1. The appellant is over the age of [REDACTED] and a current resident of a skilled nursing facility.
2. The appellant has a community spouse.
3. On December 31, 2024, MassHealth received an application from the appellant seeking coverage of long-term care benefits effective January 23, 2025.
4. On February 26, 2025, MassHealth denied the appellant's application because it determined that the appellant and her spouse had countable assets that exceeded program limits. The February 26<sup>th</sup> notice informed the appellant that he is approved for Medicare Savings Program, QMB benefits.
5. On March 7, 2025, MassHealth notified the appellant that his Medicare Savings Program, QMB benefits were being downgraded to Medicare Savings Program, SLMB coverage because it determined that the appellant's countable assets were too high.
6. On March 10, 2025, MassHealth notified the appellant that he may be able to retain assets in excess of the MassHealth limit in order to bring the community spouse's income up to a level necessary to meet her MMMNA.
7. After deducting a CSRA of \$157,920 and an individual maximum asset limit of \$2,000,

MassHealth found that the appellant had excess assets of \$51,361.

8. The community spouse's MMMNA is \$2,678.
9. The appellant receives a monthly social security benefit of \$161 and a monthly pension of \$505.15, for a monthly total of \$666.15.
10. The community spouse receives a monthly social security benefit of \$1,204 and a monthly pension of \$280.36, for a monthly total of \$1,484.36.
11. As of the hearing date, the deposit yield quoted in the Bank Rate Monitor Index for a money market account was .39%.
12. The monthly income generated from investing the first \$10,000 of the CSRA in a .39% market account is \$3.25 ( $10,000 \times .0039 \div 12 = 3.25$ ).
13. As of the hearing date, the highest deposit yield quoted in the Bank Rate Monitor Index for any term not to exceed 2½ years was 1.25%.
14. The monthly income generated from investing the remaining CSRA in a 2½ year CD with 1.25% deposit yield is \$154.08 ( $\$147,920 \times .0125 \div 12 = \$154.08$ ).
15. The monthly gross income of the community spouse, including the interest generated by the standard CSRA, is \$1,641.69 ( $\$1,484.36 + \$3.25 + \$154.08 = \$1,641.69$ ), which is insufficient to meet her MMMNA of \$2,678.

## Analysis and Conclusions of Law

In determining whether an institutionalized married applicant is financially eligible for MassHealth benefits, the MassHealth agency will assess the total amount of combined countable assets held by the applicant and/or their spouse. MassHealth includes all countable assets in this assessment, regardless of the form of ownership between the couple (130 CMR 520.016(B)(2)). When an institutionalized applicant's spouse resides in the community, MassHealth will also determine the amount of assets that may be kept by the community spouse. This asset amount, otherwise referred to as the community spouse resource allowance (CSRA) is treated as unavailable to the institutionalized spouse for purposes of determining eligibility for MassHealth Standard (130 CMR 520.016(B)(2)). The maximum CSRA permitted by regulation is currently \$157,920.00.

Upon completing an asset assessment in this case, MassHealth valued the appellant's total asset amount at \$211,281.43. From this asset amount, MassHealth deducted the standard CSRA of \$157,920, and the applicant's \$2,000 asset maximum, for a total excess countable amount of

\$51,361.00. On this basis, MassHealth denied the appellant's application for long-term care benefits.

The appellant does not dispute that he and his spouse own assets in excess in the regulatory limits, as stated above. Rather, the appellant has invoked his right under 130 CMR 520.017 to seek an increase in the standard CSRA. The appellant argues that he is entitled to an adjustment to the CSRA, such that it would reduce his excess asset amount to render him financially eligible for benefits. The relevant MassHealth regulation states the following:

130 CMR 520.017: Right to Appeal the Asset Allowance or Monthly-Maintenance Needs Allowance:

(A) Request for an Adjustment to the Community Spouse's Asset Allowance.

After the institutionalized spouse has applied for MassHealth Standard and has received a notice of approval or denial for MassHealth Standard, either spouse may appeal to the Board of Hearings to request an adjustment to the asset allowance. The purpose of the adjustment is to generate sufficient income, as determined by the MassHealth agency, for the community spouse to remain in the community.

(B) Minimum-Monthly-Maintenance-Needs Allowance

The minimum-monthly-maintenance-needs allowance is the amount needed by the community spouse to remain in the community. This amount is based on a calculation that includes the community spouse's shelter and utility costs in addition to certain federal standards, in accordance with 130 CMR 520.026(B)(1).

(C) Adjustment of the Amount of Asset Allowance

If either spouse claims at a fair hearing that the amount of income generated by the community spouse's asset allowance as determined by the MassHealth is inadequate to raise the community spouse's income to the minimum-monthly-maintenance-needs allowance, the fair-hearing officer will determine the gross income available to the community spouse as follows.

- (1) The fair-hearing officer will determine the gross amount of income available to the community spouse. The fair-hearing officer includes the amount of the income that would be generated by the spouse's asset allowance if \$10,000 of the asset allowance were generating income at an interest rate equal to the deposit yield quoted in the Bank Rate Monitor Index as of the hearing date for money market accounts, and if the

remainder of the spouse's asset allowance were generating income at an interest rate equal to the highest deposit yield quoted in the Bank Rate Monitor Index as of the hearing date for any term not to exceed 2½ years.

- (2) If the community spouse's gross income under 130 CMR 520.017(C) is less than the minimum-monthly-maintenance-needs allowance (MMMNA), then the fair-hearing officer allows an amount of income from the institutionalized spouse (after the personal-needs deduction described in 130 CMR 520.026(A)) that would increase the community spouse's total income to equal, but not to exceed, the MMMNA. 130 CMR 520.017(C)(2) applies to all hearings held on or after September 1, 2003, regardless of the date of application.
- (3) If after the fair-hearing officer has increased the community spouse's gross income under 130 CMR 520.017(C)(1) and (2), the community spouse's gross income is still less than the MMMNA, then the fair hearing officer increases the community spouse's asset allowance by the amount of additional assets that, if generating income at an interest rate equal to the highest deposit yield in the Bank Rate Monitor Index as of the hearing date for any term not to exceed 2½ years, would generate sufficient income to raise the income total to the MMMNA.

Before determining what amount, if any, of the appellant's excess assets may be shifted to increase the spousal asset allowance, it is first necessary to ascertain the correct minimum monthly maintenance needs allowance (MMMNA) for the community spouse. Here, the parties agree that the spouse's MMMNA is \$2,678.

Next, the record sufficiently demonstrates that the community spouse does not have sufficient income to meet her MMMNA (130 CMR 520.017(C)(1)). Specifically, the spouse has monthly income from social security and a pension that totals \$1,484.36, resulting in a shortfall of \$1,194.14. Using the applicable Bank Rate Monitor Index figures, she could generate interest income of \$157.33 per month on the standard CSRA asset amount of \$157,920.<sup>1</sup> The combined income sources give the community spouse access to a total income of \$1,641.69 per month, which is insufficient to meet an MMMNA of \$2,678.

Next, the appellant demonstrated that he is permitted to allocate his income, less specified deductions, to his spouse to the extent it will reduce her shortfall (130 CMR 520.017(C)(2)). The

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<sup>1</sup> As explained above, and pursuant to the criteria set forth in 130 CMR 520.017(C)(1), this interest income is achieved if the first \$10,000 were held in a money market account with a deposit yield of .39% and the remaining asset allowance of \$147,920 were placed in a 2½ year CD with a deposit yield of 1.25%.

appellant's income consists of a monthly social security payment of \$161 and a pension of \$505.15. After deducting the personal needs allowance (PNA) of \$72.80, the amount of the appellant's income that the community spouse may use to meet her MMMNA is \$593.35. Combining all income sources together (\$1,641.69 + \$593.35), the community spouse has access to a total monthly income of \$2,235.04. The community spouse still needs an additional income of \$442.96 to meet her MMMNA.

With a shortfall remaining, the CSRA may be increased by the amount of additional assets, that, if invested at the highest rate quoted in the Bank Rate Monitor Index as of the hearing date, would generate sufficient income to raise the total to the MMMNA (130 CMR 520.017(C)(3)). As evidenced at the hearing, the highest rate quoted is 1.25% if deposited into a CD with a term of 2½ years. Investing the appellant's entire excess asset amount of \$51,361.00 under such terms would yield an annual interest income of \$642.02, amounting to a monthly interest income amount of \$53.50 ( $51,361 \times .0125 \div 12 = \$53.50$ ). Combining \$53.50 with the available income of \$2,235.04, gives the community spouse a total income amount of \$2,288.54. The income generated from the excess assets is still insufficient to meet her MMMNA of \$2,678. Therefore, the community spouse may retain all the excess assets. The appeal is approved.

## **Order for MassHealth**

Rescind the February 26<sup>th</sup> and March 7, 2025 notices. Allocate all excess assets to the community spouse resource allowance. Deem all assets in the adjusted CSRA as unavailable to the appellant pursuant to 130 CMR 520.016(B)(2). Proceed with eligibility determination. Remove aid pending.

## **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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Kimberly Scanlon  
Hearing Officer  
Board of Hearings



cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

