

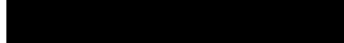
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part	<b>Appeal Number:</b>	2511332
<b>Decision Date:</b>	10/1/2025	<b>Hearing Date:</b>	09/10/2025
<b>Hearing Officer:</b>	David Jacobs		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Lindsay Gallant, Taunton MEC



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Approved in part	<b>Issue:</b>	Long-Term Care Patient-Paid Amount
<b>Decision Date:</b>	10/1/2025	<b>Hearing Date:</b>	09/10/2025
<b>MassHealth's Rep.:</b>	Lindsay Gallant	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Board of Hearings (Remote)		

## Authority

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

## Jurisdiction

By a notice dated 7/16/2025, MassHealth notified the appellant that she was eligible for MassHealth Standard for long term care residents with a start date of 05/02/2025 and a patient-paid amount of \$3,470.73, with a spousal allowance deduction of \$1,592.00, starting May 1, 2025. (Exhibit 2). The appellant filed a timely appeal on 8/1/2025 (Exhibit 3). Determination of a patient-paid amount is a valid basis for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth notified the appellant that she was eligible for MassHealth Standard with a patient-paid amount of \$3,470.73 beginning May 1, 2025, and a spousal allowance of \$1,592.00.

## Issue

The appeal issue is whether the community spouse is entitled to a higher spousal maintenance needs allowance, which would further reduce the patient-paid amount (PPA).

## Summary of Evidence

The MassHealth representative appeared telephonically and testified to the following: MassHealth received the appellant's application on 6/2/2025 and an approval notice was issued on 7/16/2025 with an effective start date of 5/2/2025. The appellant's PPA from 5/2/2025-6/30/2025 was \$3,470.73 which included an SMNA allowance. The appellant's spouse passed away on 7/11/2025, and, by notice dated 07/18/2025, the MassHealth system automatically issued a new PPA for July 2025 for \$1,114.73. (Exhibit 1). It appears that such notice still allowed for a spousal allowance, but did not include the spouse's income in calculating the spousal allowance, resulting in a reduced PPA. (Exhibit 1). MassHealth adjusted the appellant's PPA beginning August 2025 and calculated a new PPA of \$3,757.73. (Exhibit 10).

The spousal allowance was calculated as follows:

Rent/mortgage	\$	1,139.00
Property taxes and insurance	\$	857.00
Required condo/coop maintenance charge	\$	0.00
Food Stamp Allowance	\$	890.00
<u>Utility allowance</u>	<u>\$</u>	<u>0.00</u>
Total shelter costs	\$	2,886.00
Standard Shelter Expense	\$	-793.13
Total Shelter Expense	\$	2,092.87
Standard Maintenance Allowance	\$	2,643.75
Total	\$	4,736.62 <sup>1</sup>
Maximum allowed under regs	\$	3,948.00
Spousal Income	\$	-2,356.00
Spousal Maintenance Needs Deduction	\$	1,592.00

(Exhibit 8)

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<sup>1</sup> The maximum Minimum Monthly Maintenance Needs Allowance (MMMNA) pursuant to MassHealth regulations is \$3,948.00. (130 CMR 520.026).

The appellant's PPA was calculated as follows:

Social Security Income	\$ 878.00
Private Pension Income	\$ 4,360.25
Total Income	\$ 5,238.25
PNA Allowance	\$ 72.80
Spousal Allowance	\$ 1,592.00
Health Insurance Allowance	\$ 102.72
PPA	\$ 3,470.73

The appellant's attorney appeared telephonically on the appellant's behalf and conceded to the facts laid out by MassHealth. She requested, however, that the hearing officer recognize that there are exceptional circumstances for the appellant's spouse's needs and the spousal support amount should be increased. The appellant's attorney stated that, from at least 5/2/2025 through to the appellant's spouse's death in [REDACTED] he received costly in-home medical care. The appellant's attorney submitted several in-home care company invoices showing the following for the relevant time period:

5/2/2025: \$264.00  
5/3/2025 to 5/9/2025: \$1,584  
5/24/2025 to 5/30/2025: \$1,100  
5/31/2025: \$220  
6/1/2025-6/6/2025: \$1,320  
6/7/2025 to 6/13/2025: \$1,760  
6/14/2025 to 6/15/2025: \$552  
6/16/2025 to 6/20/2025: \$1,320  
6/21/2025-6/27/2025: \$1,848

Appellant's spouse submitted documentation of medical expenses totaling \$3,168.00 in May 2025 and \$6,800.00 in June 2025.

(Exhibit 6)

The attorney argued this matter should be pro-forma as the spouse clearly needed these services. In response, the hearing officer left the record open until 9/17/2025 for the appellant to submit medical documentation showing the appellant's spouse's diagnosis and that he required the in-home care (Exhibit 7). On 9/17/2025, the appellant's attorney submitted a medical letter that laid out the appellant's diagnoses which include heart failure, diabetes, and kidney disease (Exhibit 9). The letter does not speak to the medical necessity of in-home care *id.* MassHealth also provided a listing of the appellant's spouse's assets which are as follows:

Life Insurance: \$449.40 as of 12/31/2024  
 Bank Account: \$148,294.37 as of 6/30/2025  
 Bank Account: \$5.38 as of 6/30/2025  
 Bank Account: \$1,397.11 as of 6/8/2025 (Joint Account with appellant)  
 Bank Account: \$100.04 as of 6/30/2025 (Joint Account with appellant)

(Exhibit 11)

The provided statements show the total interest gained for 2024 for the cash surrender value of the spouse's life insurance policy was \$37.83, which averages out to \$3.15 a month. (Exhibit 11). The various bank accounts accrued a total of \$2.22 in interest per month. (Exhibit 11). The appellant spouse's monthly interest income averages \$5.37 per month. (Exhibit 11).

### Findings of Fact

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

1. MassHealth received the appellant's application on 6/2/2025 and an approval notice was issued on 7/16/2025 with an effective start date of 5/2/2025.
2. The appellant's PPA from 5/2/2025-6/30/2025 was \$3,470.73 which included a spousal allowance of \$1,592.00.
3. The appellant's spouse passed away on [REDACTED] and the appellant's PPA for July, 2025 was calculated to be \$1,114.73 and from August 2025 going forward was adjusted to \$3,757.73.
4. The appellant's May and June, 2025 PPA was calculated as follows:

Social Security Income	\$ 878.00
Private Pension Income	\$ 4,360.25
Total Income	\$ 5,238.25
PNA Allowance	\$ 72.80
Spousal Allowance	\$ 1,592.00
Health Insurance Allowance	\$ 102.72
PPA	\$ 3,470.73

5. MassHealth calculated the community spouse's minimum monthly maintenance needs allowance as follows:

Rent/mortgage	\$	1,139.00
Property taxes and insurance	\$	857.00
Required condo/coop maintenance charge	\$	0.00
Food Stamp Allowance	\$	890.00
<u>Utility allowance</u>	\$	<u>0.00</u>
Total shelter costs	\$	2,886.00
Standard Shelter Expense	\$	-793.13
Total Shelter Expense	\$	2,092.87
Standard Maintenance Allowance	\$	+2,643.75
Total	\$	4,736.62
Maximum MMMNA	\$	3,948.00
Spousal Income	\$	-2,356.00
Spousal Maintenance Needs Deduction	\$	1,592.00

6. The appellant's assets are as follows:

Life Insurance:	\$449.40 as of 12/31/2024
Bank Account:	\$148,294.37 as of 6/30/2025
Bank Account:	\$5.38 as of 6/30/2025
Bank Account:	\$1,397.11 as of 6/8/2025 (Joint Account with appellant)
Bank Account:	\$100.04 as of 6/30/2025 (Joint Account with appellant)

7. The appellant's spouse had diagnoses that included heart failure, diabetes, and kidney disease.
8. From at least 5/2/2025 until the appellant's spouse's death in [REDACTED] he was receiving in-home care for his medical conditions.
9. The appellant's spouse submitted home health care costs totaling \$3,168.00 in May 2025 and \$6,800.00 in June 2025.
10. The appellant's interest income was \$5.37 for May, 2025 and \$5.37 for June 2025 (Exhibit 11).

### **Analysis and Conclusions of Law**

At issue in this case is whether, pursuant to 130 CMR 520.017(D), the appellant's spouse qualifies to have his spousal allowance increased beyond the regulatory maximum 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 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 will ensure that no expense (for example, for food or utilities) is counted more than once in the calculation.

(b) If the community spouse lives in an assisted-living facility or similar facility and requests an increase in his or her minimum-monthly-maintenance-needs allowance, the fair hearing officer will review the housing agreement, service plan, fee schedule, and other pertinent documents to determine whether exceptional circumstances exist. Additional amounts will be allowed only for specific expenses necessitated by exceptional circumstances of the community spouse and not for maintaining any pre-set standard of living.

(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.

(a) The fair hearing officer will first verify that the calculation of the gross income of the community spouse in determining the existing spousal-maintenance-needs deduction includes the income generated by the community spouse’s asset allowance. If the community spouse has no assets remaining from the allowance, he or she must verify the dollar amount of the remaining assets, if any, and how the money was spent. The fair hearing officer will consider how the assets were spent in determining whether or not significant financial duress exists.

(b) The fair hearing officer will determine the revised MMMNA by including

in the calculation the amount needed to meet the exceptional circumstances.

(c) The fair hearing officer will compare 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 will first deduct 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.

The appellant provided the monthly bills for in-home care provided to the spouse by in-home care providers for the months leading up to the spouse's death. For the month of May 2025, such amount was \$3,168.00 and for the month of June 2025, such amount was \$6,800.00. A letter from the spouse's doctor lists varied and severe medical conditions, and the spouse passed away in [REDACTED] (Exhibit 6 pgs. 7-24 and Exhibit 9). All together the evidence makes it more likely than not that the spouse's care was medically necessary. The appellant's spouse's diagnoses were sufficiently severe, he was receiving professional care by trained in-home caregivers, and he eventually succumbed to his illness. Medically necessary in-home medical care falls within the definition of exceptional circumstances under 130 CMR 520.017(D).

The appellant's spouse's income and total monthly expenses determine if there is financial duress. When the medically necessary medical expenses are added to the maximum MMMNA of \$3,948.00, the spouse's MMMNA for May 2025 is \$7,116.00 (\$3,948 + \$3,168.00) and for June 2025 is \$10,748.00 (\$3,948 + \$6,800). From these amounts we subtract the spouse's income, including income from assets. The spouse's total monthly income is \$2,361.37 (\$2,356 + \$5.37). Because the appellant's spouse's income is not sufficient to meet his monthly medical expenses, I determine the appellant's spouse's circumstances result in significant financial duress.

Long-term-care General Income Deductions General income deductions must be taken in the following order: a personal-needs allowance; a spousal-maintenance-needs allowance; a family-maintenance-needs allowance for qualified family members; a home-maintenance allowance; and health-care coverage and incurred medical and remedial-care expenses. These deductions are used in determining the monthly patient-paid amount. (130 CMR 520.026).

The spouse's revised MMMNA for May, 2025 is \$7,116.00 and his revised spousal maintenance needs allowance is \$4,745.63 (\$7,116.00 - \$2,361.37). The appellant's PPA for May, 2025 is calculated as follows:

Social Security Income	\$ 878.00
Private Pension Income	\$ 4,360.25
Total Income	\$ 5,238.25
PNA Allowance	\$ 72.80

Spousal Allowance	\$ 4,754.63
Health Insurance Allowance	\$ 102.72
PPA	\$ 308.10

The spouse's revised MMMNA for June 2025 is \$10,748 and his revised spousal maintenance needs allowance is \$8,386.63 (\$10,748.00 - \$2,361.37). The appellant's PPA for June 2025 is calculated as follows:

Social Security Income	\$ 878.00
<u>Private Pension Income</u>	<u>\$ 4,360.25</u>
Total Income	\$ 5,238.25
PNA Allowance	\$ 72.80
Spousal Allowance	\$ 8,386.63
Health Insurance Allowance	\$ 102.72
PPA	\$ 0

The PPA for July remains the same. The appeal is approved in part in that the PPA for May, 2025 is adjusted to \$308.10 and the PPA for June 2025 is adjusted to \$0.

### **Order for MassHealth**

Modify the notice dated 7/16/2025 and adjust the patient paid amount to \$308.10 for May 2025 and to \$0 for June 2025.

### **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.

### **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 with Suffolk County Superior Court, within 30 days of

your receipt of this decision.

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David Jacobs  
Hearing Officer  
Board of Hearings

cc: Taunton MEC

