

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2600158
<b>Decision Date:</b>	2/25/2026	<b>Hearing Date:</b>	02/03/2026
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**

*Via telephone:*



**Appearance for MassHealth:**

*Via telephone:*

Kim McAvinchey, Tewksbury 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>	LTC; Spousal Allowance
<b>Decision Date:</b>	2/25/2026	<b>Hearing Date:</b>	02/03/2026
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center, 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 December 12, 2025, MassHealth denied the appellant's application for MassHealth long term care benefits because the appellant's countable assets were over the allowable amount (Exhibit 1). The appellant filed this appeal in a timely manner on January 5, 2026 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth long term care benefits because the appellant's countable assets were over MassHealth's limit.

## Issue

The appeal issue is whether the appellant's spouse is entitled to an adjustment of the asset allowance.

## Summary of Evidence

The MassHealth representative and the appellant's attorney both appeared at hearing via telephone. The MassHealth representative testified as follows: the appellant is over the age of 65 and a resident of a nursing facility with a spouse in the community. On October 28, 2025, MassHealth receive an application on behalf of the appellant requesting a start date of August 1, 2025. On December 12, 2025, MassHealth denied the appellant's application because the appellant's assets exceeded MassHealth's limit. MassHealth determined that the appellant and her spouse (hereinafter, the "spouse" or "community spouse") have combined total assets of \$336,183.49, which is \$176,263.49 over the asset limit when the \$2,000 allowance for the appellant and the \$157,920 spousal allowance are deducted.

The appellant's monthly income is \$621 (net Social Security) and the spouse's income is \$4,342.70 (from Social Security and a pension). The appellant's spouse lives in an assisted living facility and pays \$7,460 monthly.<sup>1</sup> The MassHealth representative presented a Spousal Maintenance Needs Allowance (SMNA) worksheet. MassHealth calculated that the Minimum Monthly Maintenance Needs Allowance (MMMNA) would be \$9,490.62, which is over the regulatory Maximum Monthly Maintenance Needs Allowance of \$3,948 set by federal guidelines.

The appellant's attorney agreed with the facts presented by MassHealth, although had slightly different calculations. For example, the appellant's net Social Security is \$806, not \$621 as stated by MassHealth. Regardless of the calculation, the appellant and her spouse do not have enough in income and assets to pay for the spouse's assisted living expenses. She is seeking an increased MMMNA due to exceptional circumstances and to allow the spouse to retain all the couple's countable assets pursuant to 130 CMR 520.017. The appellant's spouse suffers from ischemic cardiomyopathy, congestive heart failure, arrhythmias, and cognitive decline. He needs complete assistance with bathing; toileting assistance; two assistive devices for eating, ambulating, dressing, and bathing; he requires escorting and minor physical assistance/cueing to and from meals and daily events, self-care, and medication management. The appellant's attorney provided a letter from the community spouse's long-time doctor and a copy of the residency agreement. The community spouse's doctor noted his progressive decline in both physical capabilities and cognitive function. The doctor strongly recommended that the spouse stay in the assisted living facility given his multiple medical problems. The appellant's attorney argued that the MMMNA should be increased because the spouse's exceptional medical needs require him to live in an assisted living facility.

The appellant's attorney stated that because the community spouse experiences a monthly shortfall, he requires a higher asset allowance to generate additional income to meet the shortfall.

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<sup>1</sup> In its testimony and hearing submission, MassHealth stated \$7,640; however, the appellant's attorney corrected it to the actual amount, \$7,460.

The attorney submitted printouts from Bankrate.com showing the Bank Rate Monitor Index (BRMI) national high yield rates for certificates of deposit (CD) and money market accounts as of January 28, 2026, which remained unchanged from the numbers used in her calculation from the week of January 21, 2026. The annual percentage yield was 1.38% for a 2.5 year CD (the highest deposit yield not exceeding two and one-half years) and .51% for money market accounts. Based on those rates, the appellant would require \$2,149,765.22 in additional assets to meet the shortfall, far above the assets actually available to the appellant and her spouse. The appellant's attorney stated that she left out the federal standard allowance to ensure no double counting of certain necessities, such as shelter and utilities which are included in the federal standard maintenance allowance. There is still a significant shortfall and any income generated by the assets do not come close to covering it. The appellant's attorney provided the following calculation:

- A. Community spouse's monthly income: \$1,941.90 (Social Security) + \$2,184.73 (pension) + \$216.07 (pension) = \$4,342.70
- B. Appellant's monthly income: \$806 (Social Security)
- C. Monthly expenses bearing on calculation of MMMNA: \$7,460 (monthly bill)
- D. Appellant and spouse's total countable assets: \$336,183.49
- E. Calculation of Increased Community Spouse Resource Allowance (CSRA)
  - Income generated by spouse's asset allowance of \$10,000 multiplied by .51% (the BRMI for the week of 1/21/26 for money market accounts) = \$4.25 per month of income
  - Income generated by remaining spouse's asset allowance of \$147,920 multiplied by 1.38% (the BRMI for the week of 1/21/26 for 2.5 year CD) = \$170.11 per month of income
  - \$4,342.70 (Spouse's total income) + \$470.71 (appellant's total income less PNA \$72.80 and Medex \$262.49) = \$4,813.41.
  - Total Income = \$4,987.77 (\$4,813.41 + 4.25 + 170.11)**
  - MMMNA \$7,460.00 - \$4,987.77 (total income) = **\$2,472.23 monthly shortfall in MMMNA**
  - Annual shortfall in MMMNA \$2,472.23 X 12 = \$29,666.76
  - BRMI for 2.5 year CD 1.38%
  - Amount of assets needed to generate the shortfall: \$2,149,765.22**

Based on the calculations, the monthly shortfall is \$2,472.23, resulting in an annual shortfall of \$29,666.76. In order to generate this amount, the spouse would need \$2,149,765.22 in additional assets. The income from all available resources is still less than the MMMNA. Therefore, the appellant argued that the spouse needs to retain all of the appellant's income (minus the PNA) and all excess assets.

MassHealth understood the appellant's position and calculations, but was unable to make any further adjustments based on regulations.

## Findings of Fact

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

1. The appellant is over the age of 65 and a resident of nursing facility with a spouse in the community (Testimony and Exhibit 4).
2. On October 28, 2025, MassHealth received an application on behalf of the appellant (the institutionalized spouse) requesting a coverage start date of August 1, 2025 (Testimony and Exhibit 4).
3. On December 12, 2025, MassHealth denied the appellant's long-term care application on the basis that she and her husband had assets totaling \$336,183.49, which was \$176,263.49 over the allowable asset limit when the \$2,000 allowance for the appellant and the \$157,920 spousal allowance are deducted (Testimony and Exhibits 1 and 4).
4. The appellant filed a timely appeal on January 5, 2026 (Exhibit 2).
5. The community spouse requested an increased MMMNA due to exceptional circumstances, as he resides in an assisted living facility and pays \$7,460 monthly (Testimony and Exhibit 5).
6. The community spouse suffers from ischemic cardiomyopathy, congestive heart failure, arrhythmias, and cognitive decline. He needs complete assistance with bathing; toileting assistance; two assistive devices for eating, ambulating, dressing, and bathing; he requires escorting and minor physical assistance/cueing to and from meals and daily events, self-care, and medication management. He is experiencing progressive decline in both physical capabilities and cognitive function. His doctor supported his need to remain in the assisted living facility. (Testimony and Exhibit 5).
7. The appellant's monthly income is \$806 and the community spouse's monthly income is \$4,342.70 (Testimony and Exhibit 4).
8. MassHealth determined the community spouse's MMMNA would be \$9,490.62, which would be over the regulatory maximum of \$3,948.00 (Testimony and Exhibit 4).
9. As of January 28, 2026, the yield quoted in the Bank Rate Monitor Index for money market accounts is .51% (Exhibit 5).
10. Using this rate, the first \$10,000 of the community spouse's asset allowance generates a monthly income of \$4.25 (Exhibit 5).

11. As of January 28, 2026, the highest deposit yield quoted in the Bank Rate Monitor Index for any term not exceeding 2.5 years is 1.38 % (Exhibit 5).
12. Using this rate, the community spouse's monthly income from the remainder of his share of the retained spousal assets (\$147,920) is \$170.11 (Exhibit 5).
13. Using this rate (1.38%), the community spouse's remaining excess assets (\$176,263.49) would generate an additional \$202.70 per month.
14. The income from all available resources is still less than the amount needed to cover the community spouse's assisted living facility rent and there would be a monthly shortfall.
14. The appellant's spouse would need over \$2,000,000 in assets to generate enough income to cover the shortfall (Testimony and Exhibit 5).

## **Analysis and Conclusions of Law**

At issue in this case is MassHealth's denial of the appellant's long-term-care application due to excess assets. While there is no dispute that the appellant and her spouse had assets in excess of what is allowed by regulation, the appellant contends that all of those assets are needed for her spouse to remain in the community. Furthermore, the community spouse also asks to keep the institutionalized spouse's income that would otherwise pay for her patient paid amount.

The first step is to review how MassHealth determines the amount the institutionalized spouse is expected to pay as a PPA, and how much of the institutionalized spouse's income the community spouse is allowed to retain as the spousal-maintenance-needs allowance ("SMNA").<sup>2</sup> 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; 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, and the family-maintenance-needs allowance and home-maintenance needs allowance only apply where a member has dependent children, siblings, or parents living in their former home, or the member is likely to return home in the next six months. Id.

If the community spouse's own income is insufficient to meet their monthly expenses, they are permitted to keep a portion of the institutionalized spouse's income as an SMNA. The SMNA "is the amount by which the minimum-monthly-maintenance-needs allowance exceeds the community spouse's gross income." 130 CMR 520.026(B). MassHealth determines the MMMNA by adding a federal standard maintenance allowance to the difference between the community

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<sup>2</sup> The SMNA is usually referred to in the regulations as the spousal-maintenance-needs deduction.

spouse's actual costs of shelter, including a standard amount for utility costs, and the standard shelter expense. See 130 CMR 520.026(B)(1). MassHealth may only allow a community spouse to retain the maximum-monthly-maintenance allowance of \$3,948.00. 130 CMR 520.026(B)(2).

To increase the maximum-monthly-maintenance allowance, a fair hearing decision must find an adjustment is appropriate because exceptional circumstances exist. See 130 CMR 520.017(D). This is the same process that must be used to allow a community spouse to retain excess assets to generate income. See 130 CMR 520.017.

(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).

(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.

(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 reviews the housing agreement, service plan, fee schedule, and other pertinent documents to determine whether exceptional circumstances exist. Additional amounts are 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 first verifies 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 considers how the assets were spent in determining whether or not significant financial duress exists.

(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)(1) and (D)(2) (emphasis added).

Based on the testimony and documentation provided, the community spouse has shown exceptional circumstances resulting in significant financial duress, as his income alone is insufficient to maintain the cost of remaining in his medically necessary assisted living facility. The appellant's "revised MMMNA" is equivalent to his documented expenses, the \$7,460.00 per month he pays to stay at the assisted living facility.

Once exceptional circumstances are found, the regulations instruct the hearing officer determine:

the amount of the income that would be generated by the [community] 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 two and one-half years.

130 CMR 520.017(C)(1).

The community spouse's MMMNA is \$7,460. The community spouse's asset allowance would generate \$174.36 per month, were \$10,000 invested at .51% (\$4.25) and \$147,920 at 1.38% (\$170.11). This increases the community spouse's monthly income to \$4,517.06, based upon his income and the income his assets generate. Because this number is still lower than his monthly expenses, the next step is to increase the community spouse's income up to the entire amount of the institutionalized spouse's income, not including the PNA. See 130 CMR 520.017(C)(2). This increases the community spouse's income to \$5,250.26.<sup>3</sup> This results in a monthly shortfall of \$2,209.74. As the shortfall exceeded the revised MMMNA, the community spouse is entitled to retain all of the appellant's monthly income after deducting the PNA.

Finally, the community spouse is allowed to keep as much of the excess assets as are required to make up the remaining shortfall between his income and the revised MMMNA. See 130 CMR 520.017(C)(3). Here, the remaining excess assets will generate an additional \$202.70 per month (\$176,263.49 at the rate of 1.38%), which still leaves the community spouse with a shortfall between his income and the cost of residing in the assisted living facility. Therefore, this appeal is APPROVED, and the community spouse may keep all of the excess assets as well as all of the institutionalized spouse's income, except for her PNA.

The appeal is APPROVED.

## **Order for MassHealth**

Rescind the notice dated December 12, 2025 and allocate all income and excess assets to the community spouse. Establish August 1, 2025 as the eligibility start date and a Patient Paid Amount of \$0.00.

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<sup>3</sup> The appellant's attorney subtracted both the PNA and Medex from the appellant's income in this part of her calculation; however, pursuant to 130 CMR 520.017(C)(2), it should only include the institutionalized spouse's income "after the personal-needs deduction described in 130 CMR 520.026(A)," or \$72.80. Deductions for healthcare coverage and other incurred expenses are described in 130 CMR 520.026(E). Ultimately, it is of little impact as a significant shortfall remains.


## 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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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

  
MassHealth Representative: Monica Ramirez, Charlestown MassHealth Enrollment Center, 529  
Main Street, Suite 1M, Charlestown, MA 02129