



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Division of Medical Assistance
600 Washington Street
Boston, MA 02111
www.mass.gov/dma

MassHealth
Eligibility Letter 103
July 1, 2003

TO: Division Staff

FROM: Douglas S. Brown, Acting Commissioner

A handwritten signature in cursive script, appearing to read "D. Brown", followed by a horizontal line.

RE: Spousal Asset Revision and the Annual Change to the Federal Standard Maintenance Allowance and Standard Shelter Expense

This letter transmits revised regulations about the annual increase to the federal standard maintenance allowance from \$1,493 to **\$1,515**, and the standard shelter expense from \$448 to **\$455**.

This letter also transmits a change to the spousal asset regulations to comply with federal law at 42 U.S.C. 1396r-5(f).

These emergency regulations are effective July 1, 2003.

MANUAL UPKEEP

<u>Insert</u>	<u>Remove</u>	<u>Trans. By</u>
520.016 (2 of 2)	520.016 (2 of 2)	E.L. 97
520.026 (1 of 5)	520.026 (1 of 5)	E.L. 99
520.026 (2 of 5)	520.026 (2 of 5)	E.L. 94

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- (i) one-half of the combined total countable assets of the institutionalized spouse and the community spouse, not to exceed \$90,660;
- (ii) \$18,132, if the total combined countable assets of the couple are between \$18,132 and \$36,264;
- (iii) the amount of the couple's total countable assets, if the total combined amount is \$18,132 or less;
- (iv) a court-ordered amount; or
- (v) an amount determined after a fair hearing in accordance with 130 CMR 520.017.

(b) Compare the amount of the remaining assets to the MassHealth asset standard for one person, which is \$2,000. When the amount of the remaining assets is equal to or below \$2,000, the institutionalized spouse has met the asset test of eligibility.

(3) Post-Eligibility Transfer of Assets.

(a) To meet the needs of the community spouse and to allow the continuing eligibility of the institutionalized spouse, the Division allows the institutionalized spouse, after he or she has been determined eligible for MassHealth Standard, to transfer assets to or for the sole benefit of the community spouse in accordance with 130 CMR 520.016(B)(1) and (2).

(b) The institutionalized spouse must transfer any of his or her assets that are part of the community spouse's asset allowance no later than 90 days immediately after the date of the notice of approval for MassHealth Standard. During this 90-day period, the Division:

- (i) will continue to exclude these assets in the determination of continuing eligibility; and
- (ii) will not apply the transfer rules in 130 CMR 520.018 and 520.019 to the assets transferred to the community spouse.

(c) The Division may extend the 90-day period if any of the following conditions exist:

- (i) the court is involved in assigning the couple's property through support actions;
- (ii) an appeal of the asset allowance has been filed with the Board of Hearings; or
- (iii) the condition of the institutionalized spouse requires the appointment of a conservator or guardian to act on his or her behalf.

(d) The amount of the transferred assets added to the assets owned by the community spouse cannot exceed the community spouse's asset allowance as defined in 130 CMR 520.016(B)(2).

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- (1) The Division determines the MMMNA by adding the following amounts:
- (a) \$1,515 (the federal standard maintenance allowance); and
 - (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$455 and the shelter expenses for the community spouse's principal residence, including:
 - (i) 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
 - (ii) the applicable standard deduction under the Food Stamp Program for utility expenses. If heat is included in the rent or condominium fee, this amount is \$237. If heat is not included in the rent or condominium fee, this amount is \$391.
- (2) The maximum-monthly-maintenance-needs allowance is \$2,267 per month, unless:
- (a) it has been increased as the result of a fair-hearing decision based on exceptional circumstances in accordance with 130 CMR 520.017(D). The amount determined as a result of a fair hearing must be used when it exceeds the MMMNA calculated according to 130 CMR 520.026(B)(1) or it exceeds a court order for the support of the community spouse; or
 - (b) 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 MMMNA calculated according to 130 CMR 520.026(B)(1) or it exceeds the amount resulting from a fair hearing.

(C) Deductions for Family-Maintenance Needs.

- (1) The Division allows a deduction from the income of a long-term-care resident to provide for the maintenance needs of the following family members if they live with the community spouse:
- (a) a minor child — a child under age 21 of either member of the couple;
 - (b) a dependent child — a child over age 21 who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code;

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(c) a dependent parent — a parent of either spouse who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code; and

(d) a dependent sibling — a brother or sister of either spouse (including a half-brother or half-sister) who lives with the community spouse and who is claimed as a dependent by either spouse for income-tax purposes under the Internal Revenue Code.

(2) The deduction for family-maintenance needs is one-third of the amount by which the federal standard maintenance allowance exceeds the monthly gross income of the family member. The federal standard maintenance allowance is \$1,515.

(D) Deductions for Maintenance of a Former Home.

(1) The Division allows a deduction for maintenance of a home when a competent medical authority certifies in writing that a single individual, with no eligible dependents in the home, is likely to return home within six months after the month of admission. This income deduction terminates at the end of the sixth month after the month of admission regardless of the prognosis to return home at that time.

(2) The amount deducted is the 100 percent federal-poverty-level income standard for one person.

(E) Deductions for Health-Care Coverage and Other Incurred Expenses.

(1) Health-Insurance Premiums or Membership Costs. The Division allows a deduction for current health-insurance premiums or membership costs when payments are made directly to an insurer or a managed-care organization.

(2) Incurred Expenses.

(a) After the applicant is approved for MassHealth, the Division will allow deductions for the applicant's necessary medical and remedial-care expenses. These expenses must not be payable by a third party. These expenses must be for medical or remedial-care services recognized under state law but not covered by MassHealth.

(b) These expenses must be within reasonable limits as established by the Division. The Division considers expenses to be within reasonable limits provided they are:

(i) not covered by the MassHealth per diem rate paid to the long-term-care facility; and

(ii) certified by a treating physician or other medical provider as being medically necessary.