



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
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MassHealth  
 Eligibility Letter 186  
 April 15, 2009

**TO:** MassHealth Staff

**FROM:** Tom Dehner, Medicaid Director *TD*

**RE:** **2008 RSDI Cost-of-Living Adjustment (COLA) for Community and Long-Term-Care MassHealth Cases and Revision to the Federal Poverty Level Adjustment Date**

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The following cost-of-living adjustments are effective January 1, 2008.

- The maximum monthly spousal maintenance needs allowance increased from \$2,541.00 to **\$2,610.00**.
- The maximum amount of assets that can be kept by an institutionalized individual's spouse increased from \$101,640 to **\$104,000**.
- The basic Medicare Part B premium increased from \$93.50 to **\$96.40** per month.

In addition, the regulations at 130 CMR 506.007(C) and 520.009(B) are being revised to change the month of the federal poverty level (FPL) adjustment from a specific month to "annually."

These regulations are being issued as emergency regulations, retroactive to January 1, 2008.

**MANUAL UPKEEP**

<u>Insert</u>	<u>Remove</u>	<u>Trans. By</u>
506.006	506.006	E.L. 171
519.003 (2 of 2)	519.003 (2 of 2)	E.L. 182
520.009 (2 of 3)	520.009 (2 of 3)	E.L. 63
520.016 (2 of 2)	520.016 (2 of 2)	E.L. 161
520.026 (1 of 5)	520.026 (1 of 5)	E.L. 173

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506.006: Transfer of Income

All family group members are required to avail themselves of all potential income.

(A) If the MassHealth agency determines that income has been transferred for the primary purpose of establishing eligibility for MassHealth, the income is counted as if it were received.

(B) If the MassHealth agency is unable to determine the amount of available income, the family group remains ineligible until such information is made available.

506.007: Calculation of Financial Eligibility

(A) The financial eligibility for various MassHealth coverage types is determined by comparing the family group's gross monthly income with the applicable income standard for the specific coverage. In determining gross monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(B) Generally, eligibility is based on 100 percent of the federal-poverty level for long-term unemployed adults; 133 percent of the federal-poverty level for parents and disabled nonworking adults; 200 percent of the federal-poverty level for pregnant women, persons who are HIV positive, and children who are special status aliens; and 300 percent of the federal-poverty level for children who are citizens, nationals, or qualified aliens, as well as for adults working for qualified employers. Disabled persons with income in excess of these applicable standards may be eligible for MassHealth CommonHealth. There are no income caps for premium-based CommonHealth and the Children's Medical Security Plan (CMSP).

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Divide the annual federal-poverty-level income standard as it appears in the *Federal Register* by 12.

(2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level standard.

(3) Round up to the next whole dollar to arrive at the monthly income standards.

506.008: Cost-of-Living Adjustment (COLA) Protections

Applicants and members whose income increases each January as the result of a cost-of-living adjustment (COLA) will have their eligibility determined using their social security income just before the COLA, if such income can be verified, until the subsequent federal-poverty-level adjustment.

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(3) would be currently eligible for SSI, in accordance with SSI payment standards at 130 CMR 519.003(B), if the incremental amount of RSDI cost-of-living increases paid to them since the last month subsequent to April 1977, for which they were both eligible for and receiving SSI and entitled to (but not necessarily receiving) RSDI were deducted from the current amount of RSDI benefits. Cost-of-living increases referred to in 130 CMR 519.003 include increases received both by the applicant or member or by the spouse. The spouse need not be otherwise eligible for SSI; and

(4) have countable assets that are \$2,000 or less for an individual, and \$3,000 or less for a married couple.

(B) SSI Payment Standards. The RSDI amount, as described in 130 CMR 519.003(A)(3), and any other countable-income amount, as defined in 130 CMR 520.009, of the individual or couple is compared to the SSI payment standards to determine Pickle eligibility.

<b>MASSACHUSETTS SSI PAYMENT STANDARDS</b>					
<b><u>LIVING ARRANGEMENT CATEGORY</u></b>					
	<b>A</b>	<b>B</b>	<b>C</b>	<b>E</b>	<b>G</b>
	<b><u>Full Cost of Living Expenses</u></b>	<b><u>Shared Living Expenses</u></b>	<b><u>Household of Another</u></b>	<b><u>Licensed Rest Home</u></b>	<b><u>Assisted Living</u></b>
<b><u>Individual</u></b>					
<b>Aged</b>	\$765.82	676.26	529.03	930.00	1091.00
<b>Disabled</b>	751.39	667.40	512.25	930.00	1091.00
<b>Blind</b>	786.74	786.74	786.74	786.74	1091.00
<b><u>Member of a Couple</u></b>					
<b>Aged</b>	\$578.86	578.86	426.57	930.00	818.50
<b>Disabled</b>	568.03	568.03	415.76	930.00	818.50
<b>Blind</b>	786.74	786.74	786.74	786.74	818.50
NOTE: The SSI federal benefit rate (FBR) for an individual is \$637.00.					
NOTE: The personal-needs allowance in licensed rest homes is \$72.80. The personal-needs allowance in nursing facilities and chronic-disease hospitals is \$72.80.					

(C) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards in 130 CMR 519.003 may establish eligibility by reducing assets in accordance with 130 CMR 520.004, meeting a deductible as described in 130 CMR 520.028 et seq., or both.

(B) MassHealth Income Standards. Generally, financial eligibility is based on a percentage of the federal poverty level. The monthly federal-poverty-level standards are determined according to annual standards published in the *Federal Register*. The MassHealth agency adjusts these standards annually using the following formula.

- (1) Divide the annual federal-poverty-level income standard as it appears in the *Federal Register* by 12.
- (2) Multiply the unrounded monthly income standard by the applicable federal-poverty-level percentage.
- (3) Round up to the next whole dollar to arrive at the monthly income standards.

(C) Types of Earned Income. Earned income is the total amount of compensation received for work or services performed. Earned income includes wages, self-employment income, and payment from roomers and boarders.

- (1) Self-employment Income. Gross income for the self-employed is the total amount of income listed on the most recent tax return before adjustments to income are made. A real-estate dealer, if engaged in the business of selling real estate to customers for profit, is considered to have self-employment earned income. Income from property that is owned by an individual who is not a real-estate dealer or is owned by the individual's spouse is considered unearned income.
- (2) Income from Roomers and Boarders. Payment for room and meals received from anyone other than the spouse of the applicant or member is countable earned income. Gross income from roomers and boarders is the amount received for the room and board, less business expenses as described at 130 CMR 520.010(B).
- (3) Verification of Earned Income. The applicant or member must verify gross earned income. However, if he or she is applying solely for MassHealth Buy-In, as described at 130 CMR 519.011(B), verification is required only upon the request of the MassHealth agency. Verifications include:
  - (a) two recent pay stubs;
  - (b) a signed statement from the employer;
  - (c) the most recent U.S. tax return or self-employment income records;
  - (d) for room and board: a statement signed by both parties stating the amount and frequency of payments; or
  - (e) other reliable evidence.

- (i) the combined total countable assets of the institutionalized spouse and the community spouse, not to exceed \$104,400;
  - (ii) a court-ordered amount; or
  - (iii) 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 MassHealth agency 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 MassHealth agency
    - (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 MassHealth agency 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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FINANCIAL ELIGIBILITY

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- (1) The MassHealth agency determines the MMMNA by adding the following amounts:
  - (a) \$1,712 (the federal standard maintenance allowance); and
  - (b) an excess shelter allowance determined by calculating the difference between the standard shelter expense of \$514 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 \$334. If heat is not included in the rent or condominium fee, this amount is \$534.
- (2) The maximum-monthly-maintenance-needs allowance is \$2,610.00 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.

(C) Deductions for Family-Maintenance Needs.

- (1) The MassHealth agency 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;