

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:

Appeal Decision:	Denied	Appeal Number:	1805493
Decision Date:	6/15/18	Hearing Date:	April 06, 2018
Hearing Officer:	Brook Padgett	Record Open:	May 07, 2018

Appellant Representative:

MassHealth Representative:
Jennifer Moreno, Springfield MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	130 CMR 520.017
Decision Date:	6/15/18	Hearing Date:	April 06, 2018
MassHealth Rep.:	J. Moreno	Appellant Rep.:	
Hearing Location:	Springfield		

Authority

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

Jurisdiction

The Appellant received a notice dated December 26, 2017 approving the Appellant's application for MassHealth Standard benefits for long term care services beginning June 08, 2017 with a Patient Paid Amount (PPA) of \$1,240.29. (Exhibit 1).

The Appellant appealed the notice in a timely manner on January 26, 2018. (130 CMR 610.015(B); Exhibit 2).

Calculation of PPA is valid grounds for appeal (130 CMR 610.032).

Action ken by MassHealth

MassHealth approved the Appellant's application for long term care benefits as of June 08, 2017 with a PPA of \$1,240.29.

Issue

Is the Community Spouse eligible for Minimum Monthly Maintenance Needs Allowance (MMMNA) increase due to exceptional circumstances?

Summary of Evidence

MassHealth testified the Appellant applied for long term care benefits on June 08, 2017. The Appellant was approved on December 26, 2017 retroactive to June 08, 2017 with a PPA of \$1,240.29. The record establishes the following: The Institutional Spouse (Appellant) and the Community Spouse have no excess assets. The Community Spouse's income is \$1,263.00 a month (\$1,154.00 Social Security + \$109.00 Medicare) and the Appellant's income is \$3,156.59 per month (\$393.00 Social Security + \$2,763.59 pension). The Community Spouse's actual MMMNA is \$3,311.00 based on a rent/mortgage of \$1,254.00, the standard utility allowance of \$636.00 minus the standard shelter expenses of \$609.00 and the addition of the Federal Standard Maintenance Allowance of \$2,030.00. A Spousal Maintenance Needs Allowance (SMNA) of \$1,759.50 was calculated by subtracting the Community Spouse's income \$1,263.00 from the regulatory MMMNA of \$3,022.50.¹ Finally the Appellant's PPA of \$1,240.29 was calculated by subtracting the Appellant's \$72.80 Personal Needs Allowance (PNA), \$84.00 in health insurance and \$1,759.50 SMNA from the Appellant's income of \$3,156.59. MassHealth submitted into evidence the MMMNA worksheet and verification of income. (Exhibit 4).

The Community Spouse argued that she needs additional funds to remain in the community. She stated she has two mortgages on her property, which along with gas, light, heat and credit cards make it difficult to pay all her bills.

The Appellant requested the record remain open until May 07, 2018 as she may have medical bills for consideration. (Exhibit 5).

The Appellant's representative failed to submit any additional information within the required time period.

Findings of Fact

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

1. The Appellant was approved for long term care benefits beginning June 08, 2017 with a PPA of \$1,240.29. (Exhibit 1).
2. The Appellant and the Community Spouse have no countable assets. (Testimony).
3. The Appellant has gross income of \$3,156.59 per month (\$393.00 Social Security + \$2,763.59 pension). (Exhibit 4).
4. The Community Spouse has gross income of \$1,263.00 a month (\$1,154.00 Social Security +

¹ The regulations require MassHealth to use the actual MMMNA or \$3,022.50 per month, whichever is lower, when calculating the Spousal Maintenance Need Allowance (SMNA), unless it has been increase as the result of a fair-hearing decision based on exceptional circumstances.

\$109.00 Medicare). (Exhibit 4).

5. The Community Spouse's actual MMMNA is \$3,311.00 based on a rent/mortgage of \$1,254.00, the standard utility allowance of \$636.00 minus the standard shelter expenses of \$609.00 and the addition of the Federal Standard Maintenance Allowance of \$2,030.00. (Exhibit 4).
6. The regulatory MMMNA is \$3,022.50. (Exhibit 4).
7. The Community Spouse's \$1,759.50 SMNA was determined by subtracting the Community Spouse's income of \$1,263.00 from the regulatory MMMNA of \$3,022.50. (Exhibit 4).
8. The Appellant's PPA of \$1,240.29 was determined by subtracting the Appellant's \$72.80 PNA, \$84.00 health insurance and \$1,759.50 SMNA from the Appellant's \$3,156.59 income. (Exhibit 4).

Analysis and Conclusions of Law

After the institutionalized spouse has received notice of either approval or denial for MassHealth Standard, either spouse may appeal to the 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).²

The Community Spouse is requesting a recalculation of the MMMNA because the regulatory maximum MMMNA is insufficient to meet her financial needs. The Appellant's representative maintains she needs additional funds to pay her two mortgages, heat, light, and credit card bills.

The regulations allow an exceptions circumstance only for those expenses already not taken into account when establishing the actual MMMNA. As the federal standards that is used when calculating the MMMNA already covers such necessities as food, shelter, clothing, and utilities,

² 130 CMR 520.017: Right to Appeal the Asset Allowance or Monthly-Maintenance- Needs Allowance: (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 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 (*Emphasis added*).

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 housing and extraordinary medical expenses.

The Community Spouse testified that her income is reduced due to the payment of her day to day bills; however the regulations are clear that to be eligible for an increase in the SMNA an individual must demonstrate exceptional circumstances along with significant financial duress. While the Community Spouse argued that she is under financial duress, she does not meet the exceptional circumstances criteria. Exceptional circumstance is limited to those necessities that arise from the medical condition, frailty, or similar special needs of the Community Spouse. In this instance there is no evidence of a medical condition or special need of the Community Spouse and as a result the Community Spouse is not entitled to an increase in the SMNA. With regard to the Community Spouse's bills these items (taxes, car payment, credit card, phone, business rent, gas, and rent) are already taken into account when MassHealth established the Community Spouse's maintenance under 130 CMR 520.026(B).

The Community Spouse has not presented any evidence that she meets the exceptional circumstances criteria for an increase in the SMNA; therefore this appeal must be denied.

Order for MassHealth

None.

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 Suffolk County Superior Court, within 30 days of your receipt of this decision.

Brook Padgett
Hearing Officer
Board of Hearings

cc: Springfield MEC