

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:

Appeal Decision:	Denied	Appeal Number:	1705801
Decision Date:	6/12/17	Hearing Date:	June 6, 2017
Hearing Officer:	Stanley M. Kallianidis		

Appellant Representative:

MassHealth Representative:

Jennifer Moreno, Springfield



*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:	Increased Spousal allowance
Decision Date:	6/12/17	Hearing Date:	June 6, 2017
MassHealth Rep.:	Jennifer Moreno		

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 29, 2016, MassHealth approved the appellant's Medicaid application as of September 6, 2016 and established a patient paid amount (PPA) of \$1077.47 (Exhibit 1). The appellant filed this appeal in a timely manner on January 30, 2017 (see 130 CMR 610.015 and Exhibit 2). On February 7, 2017, MassHealth corrected the PPA to \$1035.47 (Exhibit 3). The appellant filed an appeal of this second notice on February 23, 2017. A dispute over the amount of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth established the appellant's PPA at \$1077.47 and revised it to \$1035.47.

Issue

The appeal issue is whether the community spouse is entitled to an increase in the spousal maintenance needs allowance, based on exceptional circumstances, as defined in 130 CMR 520.017(D).

Summary of Evidence

The MassHealth representative testified that the appellant's MassHealth application was filed on September 14, 2016 and a re-application was filed on November 2, 2016. On December 29, 2016, MassHealth approved the appellant's Medicaid application as of September 6, 2016 and established a PPA of \$1077.47. On February 7, 2017, MassHealth lowered the PPA to \$1035.47 effective to the start date (Exhibits 1 & 3).

The MassHealth representative explained the calculation of the appellant's PPA. The community spouse's minimum monthly maintenance needs allowance (MMMNA) was calculated to be \$4159.00. This was based upon mortgage of \$1174.00, taxes and insurance of \$974.00 and the standard of \$609.00 for utilities. Her excess shelter costs were \$2156.00 as her expenses of \$2757.00 were over the \$601.00 standard. Thus, her MMMNA was the total of \$2156.00 plus the federal allowance of \$2003.00, or \$4159.00. However, because the spouse's MMMNA exceeded the maximum allowable MMMNA of \$3022.50, her MMMNA was capped at \$3022.50 (Exhibit 6).

The community spouse has no income. Therefore, the spouse-in-home deduction, the difference between her income and the MMMNA, was \$3022.50. The standard \$72.80 personal needs allowance, \$250.23 for health insurance, and the spousal allowance were also deducted from the appellant's income of \$4381.00. This was made up of net Social Security and pension. The net result was a PPA of \$1035.47 (Exhibit 6).

Although there was no dispute in MassHealth's calculations, the appellant's spouse indicated that she would like to keep more of her husband's income. The only expense cited was a student loan payment for one of her children. No unpaid medical expenses, exceptional circumstances, or significant financial duress was mentioned by the community spouse at the hearing.

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant's MassHealth application was filed on September 14, 2016 and a re-application was filed on November 2, 2016 (testimony).
2. The community spouse's MMMNA was calculated to be \$4159.00 and capped at \$3022.50 (Exhibit 5).
3. The community spouse has no income (Exhibit 5).
4. The spouse-in-home deduction, the difference between her income and the MMMNA, was \$3022.50 (Exhibit 5).

5. The spouse-in-home deduction, the standard \$72.80 personal needs allowance, and \$250.23 for health insurance, were deducted from the appellant's income of \$4381.00 (Exhibit 6).
6. Following the allowable deductions, the net result was a PPA of \$1035.47 (Exhibit 6).
7. The community spouse's would like to keep more of her husband's income due to a student loan payment for one of her children. No unpaid medical expenses, exceptional circumstances, or significant financial duress was mentioned (testimony).

Analysis and Conclusions of Law

130 CMR 520.017(D) allows for either spouse to appeal the calculation of income available to the community spouse and request an increase in the spousal maintenance needs allowance based on exceptional circumstances. Exceptional circumstances exist when there are circumstances other than those already taken into account in establishing the maintenance standard for the community spouse under 130 CMR 520.025(B) and these circumstances result in significant financial duress. Since the federal standards used in calculating the MMMNA cover such necessities such 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 housing 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.

In the instant case, the community spouse is claiming that because she pays one of her children's student loan payments, her maximum allowable MMMNA of \$3022.50 should be increased which in turn would lower the appellant's PPA. However, in order for an MMMNA increase request to be approved, it must be based upon "exceptional circumstances." This is defined as "those necessities that arise from the medical condition, frailty or similar special needs of the community spouse." Based upon this definition a child's student loan is not an expense of the community spouse and cannot be added to the MMMNA. Also, even though the appellant's actual MMMNA was calculated to be \$4159.00, no extraordinary medical expenses or "exceptional circumstances" resulting in "significant financial duress" of any kind were mentioned.

In conclusion, the community spouse has not demonstrated "exceptional circumstances." Accordingly, she is not entitled to any more of her spouse's income than \$3022.50.

The appeal is therefore 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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings