

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2178144
Decision Date:	1/21/2022	Hearing Date:	12/09/2021
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Mark Carey (Operation Integrity Unit/OIU
Representative) *via* telephone;
Aida Crespo (Springfield MEC/the MassHealth
representative)



*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

Appeal Decision:	Denied	Issue:	Recovery of Overpayment of Member Benefits
Decision Date:	1/21/2022	Hearing Date:	12/09/2021
MassHealth's Rep.:	Mark Carey, Aida Crespo	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South	Aid Pending:	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 October 6, 2021, the MassHealth Operations Integrity Unit (OIU) notified the appellant that a Bureau of Special Investigations (BSI) review had determined that she had received MassHealth benefits to which she was not entitled. Based on this conclusion, MassHealth determined that the appellant must repay a total of \$2,080.94 for these benefits. (See 130 CMR 501.012; Exhibit 1). The appellant filed a timely appeal on October 22, 2021. (See 130 CMR 610.015(B); Ex. 2). Determination of an overpayment is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth adopted the findings of a BSI review that the appellant had received MassHealth benefits to which she was not entitled and notified her that she must repay a total of \$2,080.94 for these benefits.

Issue

The appeal issue is whether appellant received MassHealth benefits to which she was not entitled.

Summary of Evidence

The appellant is an individual under the age of 65. (Ex. 6, p. 1). The MassHealth representative

testified that MassHealth sent the appellant a letter on June 25, 2019 notifying her that she was required to renew her MassHealth by August 9, 2019 or her MassHealth would end or decrease. (Ex. 6, p. 43). On July 23, 2019, the appellant submitted her renewal application. (Ex. 6, pp. 1-42). The appellant's representative stated that the appellant reported that she had income on the 2019 renewal application. (Ex. 6, p. 16). The appellant identified the name of the employer and listed the amount she received on a biweekly basis. (Ex. 6, p. 18).

The OIU representative testified that the BSI received a complaint stating that the appellant worked as a Personal Care Attendant (PCA) but failed to report the extra income earned to MassHealth. Subsequently, on August 11, 2021, BSI received information from the alleged employer confirming that the appellant was employed there from November 4, 2018 through February 22, 2020. The OIU representative stated that the appellant never reported that she was employed to MassHealth. Records from the Department of Revenue (DOR) indicated that the appellant earned \$4,638.75 in 2018, \$66,460.91 in 2019, and \$25,444.28 in 2020. (Ex. 5, p. 3). This income was also not reported to MassHealth during this period.

Using this updated income information, BSI was able to determine that the appellant qualified to receive MassHealth Standard with no premium in 2018, since her income at that time was 38% of the Federal Poverty Level (FPL) and would have qualified for MassHealth in any case. (*Id.*). In 2019, however, the appellant's income was at \$451% of FPL, and therefore she did not qualify to receive MassHealth. (*Id.*). Finally, in 2020 the appellant's income was 199% of FPL, which meant that she would have qualified for ConnectorCare with a premium. (*Id.*). The OIU representative stated that the effect was that the appellant owed nothing for 2018, because she would have qualified for MassHealth Standard with no premium. (Ex. 5, p. 3). In 2019, the appellant had \$1,598.10 in claims and \$482.84 in capitation and therefore incurred an overpayment of \$2,080.94, since she was not income eligible for MassHealth during that year. (Ex. 5, pp. 1-3). In 2020, neither claims nor capitation were submitted on the appellant's behalf, therefore there was no overpayment. The overpayment therefore totaled \$2,080.94. (Ex. 5, p. 3).

The appellant stated that she did not remember reporting her employment and income to MassHealth but she thought she did. The appellant stated that once MassHealth discovered she was employed she was informed that she would continue receiving MassHealth benefits. The appellant went to her employer's human resources office and also signed up for ConnectorCare on November 25, 2019. The appellant stated that she started paying for insurance. The appellant was concerned about paying the total amount of the overpayment, saying she did not have that money. The OIU representative informed the appellant that she could arrange to pay the overpayment through a monthly payment plan if she contacted OIU.

Findings of Fact

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

1. The appellant is an individual under the age of 65. (Ex. 6, p. 1).
2. MassHealth sent the appellant a letter on June 25, 2019 notifying her that she was required to renew her MassHealth by August 9, 2019 or her MassHealth would end or decrease. (Ex.

6, p. 43).

3. On July 23, 2019, the appellant submitted her renewal application. (Ex. 6, pp. 1-42).
4. The appellant reported that she had income on the application and identified the name of the employer, listing the amount she received on a biweekly basis. (Ex. 6, pp. 16, 18).
5. BSI received a complaint stating that the appellant worked as a PCA but failed to report the extra income earned to MassHealth. (Testimony of the OIU representative).
6. On August 11, 2021, BSI received information from the alleged employer confirming that the appellant was employed there from November 4, 2018 through February 22, 2020.
7. The appellant never reported that she was employed to MassHealth until 2019. (Ex. 6, pp. 16, 18; Testimony of the OIU representative).
8. Records DOR indicated that the appellant earned \$4,638.75 in 2018, \$66,460.91 in 2019, and \$25,444.28 in 2020. (Ex. 5, p. 3).
9. BSI was able to determine that the appellant qualified to receive MassHealth Standard with no premium in 2018, since her income at that time was 38% of the FPL and would have qualified for MassHealth in any case. (Ex. 5, p. 3).
10. In 2019, however, the appellant's income was at 451% of FPL, and therefore she did not qualify to receive MassHealth. (Ex. 5, p. 3).
11. Finally, in 2020 the appellant's income was 199% of FPL, which meant that she would have qualified for ConnectorCare with a premium. (Ex. 5, p. 3). T
12. The effect was that the appellant owed nothing for 2018, because she would have qualified for MassHealth Standard with no premium. (Ex. 5, p. 3).
13. In 2019, the appellant had \$1,598.10 in claims and \$482.84 in capitation and therefore incurred an overpayment of \$2,080.94, since she was not income eligible for MassHealth during that year. (Ex. 5, pp. 1-3).
14. In 2020, neither claims nor capitation were submitted on the appellant's behalf, therefore there was no overpayment. (Ex. 5, p. 3).
15. The overpayment therefore totaled \$2,080.94. (Ex. 5, p. 3).

Analysis and Conclusions of Law

The MassHealth agency has the right to recover payment for medical benefits to which the member was not entitled at the time the benefit was received, regardless of who was responsible and whether or not there was fraudulent intent. (130 CMR 501.012). This appeal arises out of an investigation and determination by the BSI that from November 4, 2018 through February 22, 2020, the appellant

was employed, a fact which the appellant did not report. BSI also determine that the appellant improperly received MassHealth benefits in 2019. MassHealth adopted these findings and notified the appellant that she would have to repay \$2,080.94. This amount represents the claims and capitation incurred in 2019. The appellant would have been eligible for MassHealth in 2018 even if she had reported her income, and therefore incurred no overpayment. The appellant also did not incur and overpayment in 2020 since MassHealth did not pay any claims or capitation in that year. Th appellant did not dispute these factual findings. The appellant also did not dispute MassHealth's conclusion that her household income during the time period in question exceeded MassHealth program limits making her ineligible for the MassHealth Standard benefits she received.

As noted above, MassHealth may recover payment for benefits to which the member was not entitled, regardless of who was responsible. The appellant has not demonstrated that she was eligible for the MassHealth benefits she received in 2019. Further, the appellant did not present any evidence disputing MassHealth's assertion that it paid the claims and capitation fees on her behalf. Without more, the appellant has not met her burden and has not demonstrated that an overpayment did not occur. MassHealth has established that it made overpayments when it paid claims and capitation payments during this time period, and thus it properly issued the overpayment notice. (130 CMR 501.012).

For the above stated reasons, the appeal is 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.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104