

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2178146
Decision Date:	02/03/2022	Hearing Date:	12/02/2021
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Denise Rodriguez (Chelsea MEC/the
MassHealth representative) *via telephone*
Mark Carey (Operation Integrity Unit/OIU
Representative) *via telephone*



*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:	02/03/2022	Hearing Date:	12/02/2021
MassHealth's Rep.:	Denise Rodriguez; Mark Carey	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South Tower		

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 5, 2021, the MassHealth Operations Integrity Unit (OIU) notified the appellant that a Bureau of Special Investigations (BSI) review had determined that he had received MassHealth benefits to which he was not entitled. (Ex. 1). OIU also informed the appellant that based on this conclusion, it determined that MassHealth had overpaid the appellant a total of \$3,380.00, which he was required to repay. (See 130 CMR 501.012; Ex. 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. (See 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 he was not entitled and notified him that he must repay a total of \$3,380.00 for these benefits.

Issue

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

Summary of Evidence

The MassHealth representative stated that the appellant is an individual under the age of 65 who last received MassHealth Standard with Medicare in 2019. (Ex. 3). The appellant received MassHealth Standard with Medicare beginning on March 25, 2016. (Id.). The appellant completed renewal applications in 2017 and 2018. (Ex. 6B, Ex. 7B). By signing these renewals, the appellant indicated that he understood his obligations under the program, including his obligation to report information concerning his income. (Id.). The MassHealth representative stated that MassHealth notified the appellant on September 13, 2019 that the appellant no longer qualified for MassHealth because he "...did not complete the annual eligibility renewal within the allowed time and we were not able to renew coverage based on available federal and state data sources..." (Ex. 8). The appellant's coverage ended on September 27, 2019. (Ex. 8; Ex. 3).

The OIU representative stated that on October 7, 2019, BSI received a complaint from MassHealth alleging that the appellant resided with his wife and never reported her income to MassHealth. The appellant called MassHealth on October 7, 2019 to inquire about his ineligibility and during that phone call stated that he was married and resided with his wife. The appellant informed MassHealth that Social Security informed him that he did not need to report this information. The OIU representative stated that the appellant had active MassHealth coverage from March 25, 2016 through September 27, 2019. The appellant resided at the same address¹ during the entire period. The records obtained indicated that the appellant was married on July 9, 2016. (Ex. 5, p. 3). Tax assessment records showed that the appellant's wife has owned the home in which the appellant and she reside since September 2, 1994. The Department of Motor Vehicles (DMV) indicated that the appellant and his wife were both licensed at this same address. Department of Revenue (DOR) records showed that the appellant's wife filed taxes at the same address listing herself as married filing separately. On her tax returns, the wife reported earning \$41,038 in 2016, \$37,310 in 2017, \$40,425 in 2018, and \$37,479 in 2019.²

Based on the above compiled information, BSI concluded that there was evidence of fraudulent activity from day of the appellant's marriage until September 27, 2019 because the appellant was married, resided with an employed spouse, and did not report this information to MassHealth. The appellant thereby incurred claims and capitation fees totaling \$63,024.31 to which he was not entitled. (Ex. 5, p. 2). Using the newly updated income information, however, BSI was able to determine that the appellant would have qualified for ConnectorCare coverage for the entirety of the period in question. Therefore, the overpayment is based on the cost of premiums the appellant would have paid had he reported the information. Based on these premiums, the overpayments were as follows:

\$124 per month for five months in 2016 for a total of \$620;

\$83 per month for 2017 for a total of \$996;

¹ The OIU representative identified the actual address of this property, which will not be used in this decision for reasons of privacy.

² DOR did not have record of the appellant filing taxes from 2015 through 2019.

\$84 per month for 2018 for a total of \$1008;

\$84 per month for the first nine months of 2019 for a total of \$756;

Total overpayment: \$3,380. (Ex. 5, p. 2).

The appellant stated that what the OIU representative stated could be true. The appellant confirmed that he has been married since July 2016. The appellant stated that he went to the Social Security office around this time to ask them what he needed to do, and who he needed to notify of the change to his household. Social Security told the appellant that they would take care of everything. The appellant did not hear anything further about this for four years. The appellant stated that he has a hard time with reading and spelling. The appellant always has received assistance at a local Care One facility to help him with his MassHealth paperwork. The appellant stated he did not understand that what he was doing was wrong. The appellant stated he receives benefits through Social Security because of his disability. The appellant stated that he was involved with the Department of Developmental Services until 2019. The appellant stated that he was concerned about how he would pay back the money.

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 who last received MassHealth Standard with Medicare in 2019. (Ex. 3).
2. The appellant received this particular benefit beginning on March 25, 2016. (Ex. 3).
3. The appellant was married on July 9, 2016. (Ex. 5, p. 2).
4. The appellant has resided at a specified address with his wife. (Testimony the OIU representative).
5. Tax assessment records show that this address has been owned by the appellant's wife since 1994. (Testimony of the OIU representative).
6. The same address is listed with the DMV for both appellant and his wife. (Testimony of the OIU representative).
7. The appellant's wife filed taxes at the same address listing herself as married filing separately and reporting earnings of \$41,038 in 2016, \$37,310 in 2017, \$40,425 in 2018, and \$37,479 in 2019 on her tax returns. (Testimony of the OIU representative).
8. The appellant completed renewal applications in 2017 and 2018. (Ex. 6B, Ex. 7B).
9. By signing these renewals, the appellant indicated that he understood his obligations under the program, including his obligation to report information concerning his income. (Ex. 6B; Ex. 7B).

10. MassHealth notified the appellant on September 13, 2019 that the appellant no longer qualified for MassHealth because he "...did not complete the annual eligibility renewal within the allowed time and we were not able to renew coverage based on available federal and state data sources..." (Ex. 8).
11. The appellant's coverage ended on September 27, 2019. (Ex. 8; Ex. 3).
12. On October 7, 2019, BSI received a complaint from MassHealth alleging that the appellant resides with his wife and never reported her income to MassHealth. (Testimony of the OIU representative).
13. Based on the above compiled information, BSI concluded that there was evidence of fraudulent activity from day of the appellant's marriage until September 27, 2019 because the appellant was married, resided with the employed spouse, and did not report this information to MassHealth. (Testimony of the OIU representative).
14. The appellant thereby incurred claims and capitation fees totaling \$63,024.31. (Ex. 5, p. 2).
15. Using the newly updated income information, BSI was able to determine that the appellant would have qualified for ConnectorCare coverage for the entirety of the period in question. (Testimony of the OIU representative).
16. For that reason, the overpayment is based on the amount of the premiums the appellant would have been paying had he reported the information, which were as follows:
 - \$124 per month for five months in 2016 for a total of \$620;
 - \$83 per month for 2017 for a total of \$996;
 - \$84 per month for 2018 for a total of \$1008;
 - \$84 per month for the first nine months of 2019 for a total of \$756;Total overpayment: \$3,380. (Ex. 5, p. 2).

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 July 2016 through September 2019, the appellant improperly received MassHealth benefits. MassHealth adopted these findings and notified the appellant that he would have to repay \$3,380. This amount represents the annual premium the appellant would have owed had he accurately reported his household income and been determined eligible to enroll in a health plan through the Massachusetts Health Connector.

The appellant did not dispute these factual findings. The appellant also did not dispute MassHealth's

conclusion that his household income during the time period in question exceeded MassHealth program limits making him ineligible for the MassHealth Standard benefits he received. The appellant stated that he thought that by reporting changes to Social Security, those changes would somehow be reported to MassHealth. It should be stated here that MassHealth regulations require that members report changes that affect eligibility to MassHealth within ten days or as soon as possible. (130 CMR 501.010(B)).

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 he was eligible for the MassHealth benefits he received from 2016 through 2019. Further, the appellant did not present any evidence disputing MassHealth's assertion that it paid the claims and capitation fees on his behalf. Without more, the appellant has not met his 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:

Shelly-Ann Lewis, Chelsea MassHealth Enrollment Center, 45-47 Spruce Street, Chelsea, MA 02150