

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2179794
Decision Date:	3/10/2022	Hearing Date:	02/03/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Mark Carey (Operations Integrity Unit) *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:	Overpayment
Decision Date:	3/10/2022	Hearing Date:	02/03/2022
MassHealth's Rep.:	Mark Carey	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 November 30, 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. (Exhibit (Ex.) 1, p. 2). Based on this conclusion, MassHealth determined that the appellant must repay a total of \$6,521.16 for these benefits. (See 130 CMR 501.012; Ex. 1, p. 2). The appellant filed a timely appeal on December 30, 2021. (See 130 CMR 610.015(B); Ex. 1, pp. 1, 3). 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 she was not entitled and notified her that she must repay a total of \$6,521.16 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. 3). The OIU representative testified that BSI

investigated a referral that the appellant is legally married to another individual, X¹, with whom she resides while underreporting her income to MassHealth. The OIU representative stated that a review of MassHealth's database indicated that on November 25, 2019, the appellant applied for MassHealth benefits on behalf of herself and her son, Y², at address A.³ The appellant reported income of \$20,000 per year at that time. On April 24, 2020, the appellant applied for MassHealth as a household of four, which now included both son Y and daughter Z⁴. The appellant reported annual income of \$20,000 at this time. BSI ran vital statistics for the appellant, which showed that the appellant was married to X and that the appellant and X are the parents of Y and Z.

BSI requested the appellant's state income tax records for 2019 and 2020. The appellant's 2019 income tax returned showed that the appellant and X were married and filed jointly, claiming Y as a dependent, and stating they lived at address A. The appellant and X reported annual income of \$90,921 for 2019. The appellant's 2020 income tax return showed that the appellant and X were married and filed jointly claiming Y and Z as dependents and stating they lived at address A. The appellant and X reported annual income of \$90,734 for 2020. The OIU representative stated that the appellant filed taxes at address A in 2017 and 2018. The OIU representative noted that X was enrolled in private insurance and therefore does not factor in the amount owed. As a result of this investigation BSI determined that the appellant and X underreported income to MassHealth from January 1, 2019 through December 31, 2020. Based on this new updated income, the appellant owed \$6,521.16 in overpaid benefits.

The OIU representative submitted a spreadsheet breaking down how he reached this figure and stated he sent a certified copy to the appellant. (Ex. 3):

- In 2019, the appellant's household combined income was \$90,921.
 - From January 1, 2019 through July 20, 2019, the household consisted of three individuals: the appellant, X, and Y. Based on this, the household was at 426% of the Federal Poverty Level (FPL), which meant that the household was over the limit to qualify for MassHealth. The appellant's claims and capitations totaled \$598.22. The household also owed \$448 consisting of seven months of Y's Children's Medical Security Plan (CMSP) premiums.
 - From July 21, 2019 through December 31, 2019, the appellant became pregnant with Z, and the household size increased to four. Because the household income remained the same, the household was now at 353% of FPL. The appellant became eligible for Health Safety Net (HSN). The appellant had claims totaling \$807.80. The MassHealth representative stated that OIU subtracted \$385.05 in qualifying claims, which left

¹ The OIU representative identified this individual, here referred to as X, but his name is withheld here for reasons of privacy. The letter X used to identify the spouse is not part of his initials.

² The actual name of the appellant's son is withheld for reasons of privacy and the letter Y is not part of his initials.

³ The OIU representative identified the street address in but this information is withheld here for reasons of privacy. The street address shall be referred to as A.

⁴ The actual name of the appellant's daughter is withheld for reasons of privacy and the letter Z is not part of her initials.

\$422.75 in non-qualifying claims. The appellant had capitation totaling \$293.52. Therefore, the appellant owed a total of \$716.27. Additionally, the household owed \$165.70, which represented five months of Y's CMSP premiums.

- In 2020, the household's combined income was \$90,734, which was 346% of the FPL for a household of four.
 - For the period of January 1, 2020 through April 20, 2020, the appellant was eligible for HSN. The appellant original claims were \$518.57. OIU subtracted \$252.40 in qualifying claims, leaving \$432.70 of non-qualifying claims. The appellant had capitation totaling \$166.53. Therefore, the appellant owed a total of \$432.70. The household owed \$132.56, which represented four months of Y's CMSP premiums.
 - For the period of April 20, 2020 through December 31, 2020, the appellant was eligible for HSN. Her original claims were \$13,143.05 but OIU subtracted \$9,885.41 of qualifying claims leaving \$3,257.64 in non-qualifying claims. The capitation was \$504.95. The appellant therefore owes \$3762.59 for this period. Y and Z each had a CMSP monthly premium of \$33.14 and therefore the household owed \$132.56 per child, a total of \$265.12.
- The MassHealth representative emphasized that although X was properly counted for the purposes of determining household size and income, he did not submit any claims and therefore has not incurred debt.

The appellant apologized for the inconvenience caused and stated that she had not intended to scam or steal benefits to which she was not entitled. The appellant stated that she informed MassHealth that she had gotten married but was not made aware that she was supposed to report her husband's income in addition to her own. If the appellant had known this, she would have opted to go on to her husband's insurance. The appellant stated it would be difficult for her to repay the total owed at once because of her two young children. The MassHealth representative informed the appellant that if she agreed that she owed the money, MassHealth would be more than willing to work out a repayment plan with her. The MassHealth representative stated that this could be as low as \$50 per month.

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. 3).
2. BSI investigated a referral that the appellant is legally married to another individual, X with whom she resides while underreporting her income to MassHealth. (Testimony of the OIU representative).
3. A review of MassHealth's database indicated that on November 25, 2019, the appellant applied for MassHealth benefits on behalf of herself and her son, Y, at address A.

(Testimony of the OIU representative).

4. The appellant reported income of \$20,000 per year at that time. (Testimony of the OIU representative).
5. On April 24, 2020, the appellant applied for MassHealth as a household of four, which now included both son Y and daughter Z. (Testimony of the OIU representative).
6. The appellant reported annual income of \$20,000 to MassHealth in 2019. (Testimony of the OIU representative).
7. BSI ran vital statistics for the appellant, which showed that the appellant was married to X and that the appellant and X are the parents of Y and Z. (Testimony of the OIU representative).
8. BSI requested the appellant's state income tax records for 2019 and 2020. (Testimony of the OIU representative).
9. The appellant's 2019 income tax returned showed that the appellant and X were married and filed jointly, claiming Y as a dependent, and stating they lived at address A. (Testimony of the OIU representative).
10. The appellant's 2020 income tax return showed that the appellant and X were married and filed jointly claiming Y and Z as dependents and stating they lived at address A. (Testimony of the OIU representative).
11. The appellant and X reported annual income of \$90,921 for 2019 and \$90,734 for 2020 in their tax returns. (Testimony of the OIU representative).
12. As a result of this investigation BSI determined that the appellant and X underreported income to MassHealth from January 1, 2019 through December 31, 2020. (Testimony of the OIU representative).
13. Based on this new updated income, OIU determined that the appellant and X owed \$6,521.16 in non-qualifying claims, capitation, and HSN premiums for this period. (Ex. 1, p. 2; Ex. 3).
14. X was enrolled in private insurance and therefore did not incur an overpayment. (Testimony of the OIU representative).

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 there was fraudulent intent. (130 CMR 501.012). This appeal arises out of an investigation and determination by the BSI that from January 1, 2019 through December 31, 2020, the appellant's household improperly received MassHealth benefits. MassHealth adopted these findings and

notified the appellant that she would have to repay \$6,521.16. This amount represents the annual premium the appellant would have owed had she accurately reported her household income and been determined eligible for HSN, as well as the CMSP premiums for her two children.

The 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 and her children received. The appellant stated that she did report her marriage and did not know that she needed to report her husband's income as well as her own. It should be stated here that MassHealth regulations require that members cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, comply with all the rules and regulations of MassHealth, and report changes that affect eligibility to MassHealth within ten days or as soon as possible. (130 CMR 501.010(A), (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 she was eligible for the MassHealth benefits her household received from 2019 through 2020. Further, the appellant did not present any evidence disputing MassHealth's assertion that it paid the claims and capitation fees and CMSP premiums 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 and CMSP premiums during this time period, and thus it properly issued the overpayment notice. (130 CMR 501.012).⁵

For the above stated reasons, the appeal is DENIED.

Order for MassHealth

None.

⁵ As discussed at the hearing, however, the appellant may contact MassHealth to set up a payment plan.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Mark Carey, MassHealth OPS Integrity Unit, One Ashburton Place, Boston, MA 02108