

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2201908
Decision Date:	5/25/2022	Hearing Date:	04/29/2022
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Mark Carey, Program Integrity



*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:	5/25/2022	Hearing Date:	04/29/2022
MassHealth's Rep.:	Mark Carey	Appellant's Rep.:	Pro se
Hearing Location:	Remote		

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 February 15, 2022, MassHealth notified Appellant of an overpayment of member benefits and recoupment action totaling \$1,812 for MassHealth benefits received between May 7, 2019 and September 8, 2021 (130 CMR 501.012 and Exhibit 1). Appellant filed this appeal in a timely manner on March 15, 2022 (130 CMR 610.015(B) and Exhibit 2). Notice of an overpayment and recoupment action is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified Appellant of an overpayment and recoupment action totaling \$1,812 for MassHealth benefits received between May 7, 2019 and September 8, 2021.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 501.012, in notifying Appellant of an overpayment and recoupment action totaling \$1,812 for MassHealth benefits received between May 7, 2019 and September 8, 2021.

Summary of Evidence

The MassHealth Program Integrity representative testified that the Bureau of Special Investigations received a complaint alleging that the father of two of Appellant's children (hereinafter YA) was residing in Appellant's household with Appellant and his two children and Appellant's other two children. The household composition Appellant reported to MassHealth included four children but did not include YA. Appellant was active on MassHealth coverage reporting a household of 5, with 4 children in the household between May 7, 2019 and September 8, 2021. Because Appellant resided with YA without reporting him and his income as part of the household, MassHealth determined fraudulent activity from May 7, 2019-September 8, 2021 based on evidence compiled by the BSI examiner which includes the following findings:

- A review of the MassHealth database showed that Appellant was active on MassHealth coverage reporting a household of 5, with 4 children in the household from May 7, 2019-September 8, 2021.
- On February 17, 2021, YA called the assistance line to apply for SNAP¹ benefits on his own and reported that he resided at the same address as Appellant.
- The MassHealth database revealed that YA had also been active on MassHealth since March 15, 2018, and that he reported the same address as Appellant.
- The Registry of Motor Vehicles database revealed that Appellant and YA both report the same address, and YA has reported the same address since January 30, 2017.
- Postal verifications obtained from the postmaster showed that YA and Appellant have mail delivered to the same address.
- Employment verification obtained from YA's employer showed that YA was employed for part of 2019 and listed the same address as Appellant.
- Records obtained from another employer showed that YA was employed from March 20, 2017 to September 13, 2019. Appellant was listed as YA's emergency contact, with both YA and Appellant listed as living at the same address.
- YA received unemployment compensation from November 19, 2019 to September 8, 2021 and listed Appellant's address as his address.
- Department of Revenue tax records showed that Appellant has filed taxes as Head of Household since 2010 and reported to MassHealth that she lived at her current address.

¹ Supplemental Nutrition Assistance Program (SNAP) administered by the Department of Transitional Assistance.

- Appellant reported \$26,336 income in 2019, and \$27,658 income in 2020.
- YA filed taxes as Head of Household since 2010 and reported Appellant's address as his address since 2016.
- YA reported \$50,699 income in 2019, and \$27,945 income in 2020.
- From 2015 through 2020, Appellant and YA had their tax refunds direct deposited into Digital Federal Credit Union accounts.

Combined household income in 2019 was \$77,035 for a household of 6, which is 222% of the federal poverty level which qualified Appellant and YA for ConnectorCare. MassHealth seeks to recover the cost of premium payments of \$84 per month for Appellant for the period May 7, 2019 through October 17, 2019 totaling \$420 in premiums.² For the period October 18, 2019-December 31, 2019, MassHealth seeks to recoup unpaid premiums of \$84 per month for both Appellant and YA totaling \$336 for total premium payments of \$756 for 2019. Combined household income in 2020 was \$55,603 for a household of 6, which is 158% of the federal poverty level which qualified Appellant and YA for ConnectorCare with a premium of \$44 per month for Appellant and \$44 per month for YA, for total premiums of \$1,056 for 2020.³ Updating the household to include YA and his income results in Appellant owing \$1,812 to MassHealth for unpaid premiums that would have been due.

Appellant testified that all four of her children lived with her during the periods of time in question, but YA's children no longer live with her, although she could not recall when they moved out. She added that YA never lived with her at her address and was incarcerated for part of the time. Appellant also stated that YA had another address at a girlfriend's house at other times.

The hearing record remained open until May 6, 2022 to allow Appellant to submit documentation from the condo association where she resides showing who lived at her address. No documentation was received at the Board of Hearings.

Findings of Fact

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

1. The Bureau of Special Investigations received a complaint alleging that the father of two of Appellant's children (YA) was residing in Appellant's household with Appellant and his two children and Appellant's other two children.

² MassHealth noted that it is seeking to recover premiums for periods during which claims, and capitation fees were paid by MassHealth, but is not pursuing reimbursement of the claims and capitation fees paid during any period.

³ MassHealth paid claims and capitation fees for Appellant and YW during this period.

2. Appellant was active on MassHealth coverage reporting a household of 5, with 4 children in the household between May 7, 2019 and September 8, 2021.
3. MassHealth determined fraudulent activity from May 7, 2019 to September 8, 2021 based on evidence compiled by the BSI examiner.
4. On February 17, 2021, YA called the assistance line to apply for SNAP benefits on his own and reported that he resided at the same address as Appellant.
5. YA has been active on MassHealth since March 15, 2018 and reported the same address as Appellant.
6. The Registry of Motor Vehicles database revealed that Appellant and YA both report the same address, and YA has reported the same address since January 30, 2017.
7. Postal verifications obtained from the postmaster show that YA and Appellant have mail delivered to the same address.
8. Employment verification obtained from YA's employer shows that YA was employed for part of 2019 and listed the same address as Appellant.
9. Records obtained from an employer show that YA was employed from March 20, 2017 to September 13, 2019. Appellant was listed as YA's emergency contact, with both YA and Appellant listed as living at the same address.
10. YA received unemployment compensation from November 19, 2019 to September 8, 2021 and listed Appellant's address as his address.
11. Department of Revenue tax records show that Appellant has filed taxes as Head of Household since 2010 and reported that she lived at her current address.
12. Appellant reported \$26,336 income in 2019, and \$27,658 income in 2020.
13. YA has filed taxes as Head of Household since 2010 and reported Appellant's address as his address since 2016.
14. YA reported \$50,699 income in 2019, and \$27,945 income in 2020. From 2015 to 2020, Appellant and YA had their tax returns direct deposited into Digital Federal Credit Union accounts.

15. Combined household income in 2019 was \$77,035 for a household of 6, which is 222% of the federal poverty level which qualified Appellant and YA for ConnectorCare. Premiums would have been \$84 per month for Appellant for the period May 7, 2019-October 17, 2019 totaling \$420 in premiums.
16. For the period October 18, 2019-December 31, 2019, unpaid premiums would have been \$84 per month for both Appellant and YA totaling \$336 for total premium payments of \$756 for 2019.
17. Combined household income in 2020 was \$55,603 for a household of 6, which is 158% of the federal poverty level. Premiums would have been \$44 per month for Appellant and \$44 per month for YA, for total premiums of \$1,056 for 2020.
18. Updating the household to include YA and his income results in Appellant owing \$1,812 to MassHealth for unpaid premiums that would have been due between May 7, 2019 and September 8, 2021.
19. The hearing record remained open until May 6, 2022 to allow Appellant to submit documentation from the condo association where she resides showing who lived at her address. No documentation was received at the Board of Hearings.

Analysis and Conclusions of Law

MassHealth regulation 130 CMR 501.010 outlines responsibilities of applicants and MassHealth members:

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining available health insurance.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within 10 days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, the availability of health insurance, and third-party liability.

MassHealth determined fraudulent activity from May 7, 2019 to September 8, 2021 based on evidence compiled by the BSI examiner which purports to show that the father of two of Appellant's children (YA) also resided in the household, which was unreported to MassHealth, and therefore his income was not factored into MassHealth eligibility for the household resulting in a period of fraudulent activity. The evidence presented by MassHealth is limited to a summary of the BSI Investigator's report and the MassHealth representative's sworn testimony to the contents of that report. None of the underlying records obtained and reviewed by the BSI

examiner were submitted into evidence. In the context of an administrative hearing, Appellant bears the burden of showing that the MassHealth determination is incorrect.⁴ Appellant's testimony that YA, the father of two of her children, did not reside in the same household between May 7, 2019 and September 8, 2021 is simply not credible considering MassHealth's detailed testimony concerning Appellant's and YA's tax filings, Registry of Motor Vehicles records, employer information, and MassHealth records. Appellant offered no credible testimony or evidence in support of her assertion that YA never lived in the same household during the period in question. The factual evidence accumulated by the BSI Investigator and summarized by MassHealth diminishes the credibility of Appellant's testimony, which is further eroded by her statements that she could not recall essential household composition such as when two of her children moved from her household. Thus, in the absence of definitive evidence showing that YA did not live in the household between May 7, 2019 and September 8, 2021, Appellant has not carried the burden of showing the invalidity of the MassHealth determination.

MassHealth 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. No provision under 130 CMR 501.012 will limit the MassHealth agency's right to recover overpayments (130 CMR 501.012). MassHealth has shown that updating the household to include YA and his income results in Appellant owing \$1,812 to MassHealth for unpaid premiums that would have been due between May 7, 2019 and September 8, 2021.⁵ Therefore, the recoupment action totaling \$1,812 is correct.

The appeal is DENIED.

Order for MassHealth

Proceed with recoupment of \$1,812.

⁴ Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds, 27 Mass. App. Ct. 470, 474 (1989).

⁵ See fn. 2.

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

Thomas J. Goode
Hearing Officer
Board of Hearings

cc:
MassHealth Representative:

Mark Carey, MassHealth Operations Integrity Unit, 100 Hancock Street, Quincy, MA 02171