

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2203504
<b>Decision Date:</b>	8/18/2022	<b>Hearing Date:</b>	July 07, 2022
<b>Hearing Officer:</b>	Brook Padgett	<b>Record Open:</b>	August 08, 2022

**Appellant Representative:**

Pro se

**MassHealth Representative:**

Mark Carey, Program Integrity Unit

**Witness:**

, mother



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	130 CMR 510.012
<b>Decision Date:</b>	8/18/2022	<b>Shearing Date:</b>	July 07, 2022
<b>MassHealth Rep.:</b>	M. Carey	<b>Appellant Rep.:</b>	Pro se
<b>Shearing Location:</b>	Quincy		

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

The appellant received a Recovery of Overpayment of Member Benefits notice dated April 26, 2022 stating: An investigation was done by the Bureau of Special Investigations pursuant to Massachusetts General Law, Chapter 11, Section 17. Based on this review, we have determined that you or other members of your household received MassHealth benefits from September 14, 2018 to February 17, 2022 to which you were not entitled. You owe \$19,201.25 for those benefits. 130 CMR 501.012 and 515.010. (Exhibit 1). The appellant appealed the notice timely on May 10, 2022. (130 CMR 610.015(B); Exhibit 2). Determination of an overpayment is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth intends to recoup \$19,201.25 in MassHealth benefits to which the appellant was not entitled.

## Issue

Did the appellant receive MassHealth benefits to which she was not entitled and can the Commonwealth of Massachusetts recoup the benefit overpayment?

## Summary of Evidence

A representative from the Bureau of Special Investigations (BSI) testified a MassHealth review revealed the appellant and her two children were living at the same address<sup>1</sup> as the children's father (████) without reporting the children's father's income. As a result the appellant and her children received MassHealth benefits to which they were not entitled. The investigation indicated both the appellant and appellant's children's father receive mail at the same address and that the appellant's children's father has owned the property which they reside since February 08, 2017. The Registry of Motor Vehicles database revealed that both the appellant and the appellant's children's father have active Massachusetts driver's licenses listing the same residential address. The representative stated the appellant's children's father was employed from November 2017 to April 2019 and listed the referenced address as his residence. The appellant's children's father also listed this same address as his residence with his employer from April 2019 to November 2020, indicating the appellant as living at the same address and was his emergency contact. Employment verification from August 2021 to present listed appellant's children's father living at the same referenced address and the appellant was again listed as appellant's children's father's emergency contact. Massachusetts state tax returns indicate the appellant and appellant's children's father listed the same residential address even though they filed separately. Income for appellant was reported as \$23,797 in 2018 and \$4,395 in 2019 with no tax filing for 2020. Income for appellant's children's father was reported as \$76,961 for 2018, \$61,382 for 2019 and \$58,895 for 2020. The representative stated because the appellant and her two children were living with the father of their two children and failed to provide verification of his income, the household was approved for MassHealth benefits to which they were not entitled.<sup>2</sup> Based on the household income BSI determined the appellant owes Commonwealth \$19,201.25. (Exhibit 4).

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<sup>1</sup> 79 Conserve Avenue, Westport, MA, 02790.

<sup>2</sup> The \$19,201.25 is calculated as follows. 2018, household income of \$100,758 for a family unit of three is 484% of the federal poverty level (FPL) and over the limit to qualify for MassHealth. The appellant received \$2,196.77 in claims/capitation which she was not entitled (capitation is a payment arrangement with health providers in managed care programs where MassHealth pays a set amount to physicians for each patient enrolled with them whether or not that person seeks care). 2019, household income of \$65,777 for a family unit of three is 308% of the FPL, and the household qualified for Health Safety Net (HSN). The appellant received \$7,119.81 for claims/capitation and one child (████) who was born March 22, 2019 qualified for Children's Medical Security Plan (CMSP) with a premium of \$33.14 per month for 9 months or \$298.26. 2020 household income of \$58,895 for a family unit of three is 271% FPL, and the family unit was determined eligible for ConnectorCare (CC) with a \$126.00 per month premium for 10 months or \$1,260.00. On October 29, 2020, the appellant reported she was pregnant with her second child and the remaining two months of 2020 the household size was four and at 224% of the FPL qualified for CC with a \$84.00 per month premium for two months or \$168.00. In 2021, no income could be substantiated until August 23, 2021, so \$0.00 is owed for that period. Beginning August 23, 2021, household income of \$34,081.00 which when calculated for the year amounts to \$81,794 which for a family unit of four is 312% FPL and qualifies the household for HSN. The appellant owes \$7,773.85 for qualifying claims/capitation and the two children qualified for CMSP with a combined premium of \$33.14 per month for four months or \$132.56. 2021 reported income of \$11,016 from January 2022 to February 14, 2022, calculates to \$66,096.00 per year for a household of four is 252% FPL and qualifies the household for CC with a \$126.00 per month premium for two months or \$252.00. Total cost of benefits for all years is \$19,201.25. (\$2,196.77 + 7,119.81 + \$298.26 + \$1,260.00 + \$168.00 + \$7,773.85 + \$132.56 + 252.00 = \$19,201.25).

The appellant's mother responded the appellant was never informed by MassHealth that she was required to report the father of her children's income. The appellant's mother stated the appellant is not married to the children's father and splits her time between her and the father. The appellant's mother argued the appellant's children are listed as living in their father's home only because the school system is better. The children's father has private insurance and has never been on MassHealth and the appellant maintained she has never received any state benefits other than SNAP. The appellant's mother testified she tried to get the appellant on her Connector coverage but was told by MassHealth that she needed to be in a household of her own. The appellant's mother maintained some of appellant's children's father's employment records were not correct. The appellant argued the state has known this information since 2018 and she has updated her case many times with MassHealth and they never asked her to clarify her living situation. The appellant stated she does not work as she has had to stay home to care for her children. The appellant indicated she lives 50/50 with the children's father and he pays for the children and her mother helps her with money. The appellant indicated she has now changed her address to reflect that she is living with her mother.

At the request of the appellant the record remained open until August 08, 2022 to submit any additional information for consideration and August 22, 2022 for MassHealth to respond. (Exhibit 5). The appellant failed to submit any additional evidence prior to the close of their record open period.

## **Findings of Fact**

Based on a preponderance of the evidence, I find:

1. MassHealth determined the appellant received MassHealth benefits from September 14, 2018 to February 17, 2022 to which she was not entitled. (Exhibit 1).
2. Postal verifications revealed that both the appellant and the father of the appellant's two children receive mail at the same address. (Exhibit 4).
3. Registry of Motor Vehicles database revealed that both the appellant and the father of the appellant's children have active Massachusetts driver's licenses listing the same address. (Exhibit 4).
4. November 2017 to April 2019 the father of the appellant's children listed his residence as the same address as the appellant in his employment verification. (Exhibit 4).
5. April 2019 to November 2020 the father of the appellant's children listed his residence as the same address as the appellant in his employment verification and the appellant as his emergency contact. (Exhibit 4).
6. August 2021 to present the father of the appellant's children the father of the appellant's children listed his residence as the same address as the appellant in his employment

verification. (Exhibit 4).

7. The appellant and father of the appellant's children filed separate tax returns using the same address. (Exhibit 4).
8. Income for appellant was reported as \$23,797 in 2018 and \$4,395 in 2019 with no tax filing for 2020. (Exhibit 4).
9. Income for the father of the appellant's children was reported as \$76,961 for 2018, \$61,382 for 2019 and \$58,895 for 2020. (Exhibit 4).
10. Income of the father of the appellant's two children was not reported to MassHealth during the period 2018 to 2022. (Exhibit 4).

## Analysis and Conclusions of Law

Although the appellant testified that she and her children only lived with children's father on a part-time basis there is overwhelming evidence that they all were residing at the same address. The definition of a "Family" for MassHealth purposes consists of persons who live together such as a child under age 19, and their parents. (130 CMR 501.001).<sup>3</sup>

MassHealth BSI determined the appellant received an overpayment in MassHealth premiums and fees because of the appellant's failure to provide verification of the family's total income from 2018 through 2021. The appellant's household income during this period was 484% of the federal poverty level in 2018, 308% in 2019, 224% to 271% in 2020 and 312% to 252% in 2021. This failure to report household income, as required by MassHealth regulations<sup>4</sup>, allowed the appellant and her children to receive MassHealth benefits which they were not entitled.<sup>5</sup>

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<sup>3</sup> 130 CMR 501.001 Family Definition: Family - persons who live together, and consist of: (1) a child or children under age 19, any of their children, and their parents; ...

<sup>4</sup> 130 CMR 501.010: Responsibilities of Applicants and 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 ten 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.

<sup>5</sup> 130 CMR 505.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type (130 CMR 505.001). As described in 130 CMR 505.001, the MassHealth coverage types are as follows: (1) Standard - for families (with minor children), pregnant women, children and disabled individuals, including extended benefits; must have income under 133% of federal poverty limit; (2) Prenatal - for pregnant women; (3) CommonHealth - for disabled adults, disabled children, and certain individuals who are HIV positive, and not eligible for MassHealth Standard; (4) Family Assistance - for children, certain employed adults who have access to health insurance from their employers and have income under 200% of the federal poverty limit, and certain individuals who are HIV positive, and are not eligible for MassHealth Standard or CommonHealth; (5) Basic or Buy-In - for the long-term or chronically unemployed, and certain qualified aliens; and (6) Essential - for long term unemployed who have income at or below 100% of the federal poverty limit and are not eligible for Basic; and (7) Limited - coverage for non-qualified aliens and certain qualified aliens.

Whether an overpayment of MassHealth benefits is the mistake of MassHealth or a member, the Commonwealth has the right and the duty to recover the payments of benefits to which a household was not entitled, regardless of who was responsible and regardless if there was or was not fraudulent intent. (130 CMR 501.012).<sup>6</sup>

MassHealth has provided sufficient evidence that after recalculation of eligibility based on the appellant's correct income and household size the appellant received an overpayment of \$19,201.25 in MassHealth benefits during the period 2018 to 2021. (See footnote 2).

This appeal is DENIED.

## **Order for MassHealth**

Proceed with the recovery of the \$19,201.25 overpayment.

## **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.

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Brook Padgett  
Hearing Officer  
Board of Hearings

cc: MassHealth representative: Mark Carey, MassHealth Program Integrity Unit, One Ashburton Place, Boston, MA 02108

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<sup>6</sup> 130 CMR 510.012 Recovery of Overpayment of Medical Benefits MassHealth has the right to recover payments of medical benefits to which the member was not entitled regardless of who was responsible or whether or not there was fraudulent intent. No provision under 130 CMR 501.012 shall limit MassHealth's right to recover overpayments.