

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2205919
Decision Date:	12/20/2022	Hearing Date:	09/22/2022
Hearing Officer:	Stanley Kallianidis	Record Open Date:	11/21/2022

Appellant Representative:
Pro se

MassHealth Representatives:
Mark Carey, MassHealth Operations
Integrity Unit; Liz Nickoson, MEC



*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 Recovery
Decision Date:	12/20/2022	Hearing Date:	09/22/2022
MassHealth Rep.:	Mark Carey, MassHealth Operations Integrity Unit; Liz Nickoson, MEC		
Hearing Location:	Taunton MassHealth Enrollment Center		

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 August 3, 2022, MassHealth informed the appellant that it was seeking recovery of \$10,500.21 because MassHealth determined that the appellant or members of her household were not entitled to the MassHealth benefits that they received for the period August 6, 2020 to March 28, 2022 (130 CMR 501.012 and Exhibit 1). The appellant filed this appeal in a timely manner on August 6, 2022 (130 CMR 610.015(B) and Exhibit 2). A dispute over an overpayment determination is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that it paid \$10,500.21 for benefits for which the appellant was not entitled.

Issue

Whether MassHealth was correct, pursuant to 130 CMR 501.012, in determining that MassHealth paid \$10,500.21 (revised to \$10,374.21) for benefits to which the appellant was not entitled; and if so, whether MassHealth may recover the overpayment amount?

Summary of Evidence

The appellant appeared at the hearing. MassHealth was represented at the hearing by a worker from the MassHealth Enrollment Center (MEC) in Taunton and telephonically by a representative from the MassHealth Operations Integrity Unit.

The MassHealth MEC worker indicated that during the period in question the appellant was receiving coverage through MassHealth Standard as a household of four.

The representative from the MassHealth Operations Integrity Unit testified that based on a referral from MassHealth, the Bureau of Special Investigations (BSI) from the Office of the State Auditor investigated as to the appellant's MassHealth eligibility for the period August 6, 2020 to March 28, 2022 (Exhibit 3).

According to the report, the appellant completed a MassHealth application for herself and three children on August 6, 2020. Subsequent applications were completed on August 10, 2020, June 5, 2021, and August 15, 2021. The appellant's spouse and father of the children was not included on any of the applications, nor was his income included (Exhibit 3). Based on the findings of the investigation, however, it was determined that the spouse/father was in fact living with the appellant and their children during the period in question at the same address at an apartment in Lowell, Massachusetts. This domicile was confirmed by Clear database reports, the Registry of Motor Vehicles, the Lowell postmaster, and the IRS (Exhibit 3).

The representative continued that, upon review, the overpayment was slightly reduced from \$10,500.21 to \$10,374.21. For the years 2020 and 2022, the family was eligible for MassHealth with no premium. For 2021, the household of five had income of \$104,331.00 making the family eligible for Health Safety net only, thus owing all claims and capitation rates. These claims and capitation rates totaled \$10,374.21 (Exhibit 3.)

The appellant did not dispute the income reported by MassHealth, nor did she dispute the calculations that were made in the case. The appellant's contention rather, was that she separated and then divorced her husband and that, therefore, his income should not be counted in the determination that was made. She testified that she became separated in 2017. She submitted documentation that she filed for divorce in 2018, and that her divorced became final in October 2021 (Exhibit 4).

The appellant further testified that her ex-spouse moved out to an address in Nashua, New Hampshire in 2018 shortly after the divorce. She stated that this is why his income was never reported to MassHealth.

The record was left open for 30 days for the appellant to submit proof that the ex-spouse had a different address than her Lowell address for the period on question. No such documentation was submitted during the record-open period however (Exhibit 5).

Findings of Fact

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

1. The BSI investigated as to the appellant's MassHealth eligibility for the period August 6, 2020 to March 28, 2022 (Exhibit 3).
2. The appellant completed a MassHealth application for herself and three children on August 6, 2020. Subsequent applications were completed on August 10, 2020, June 5, 2021, and August 15, 2021 (Exhibit 3).
3. The appellant's spouse and father of the children was not included on any of the applications, nor was his income included (Exhibit 3).
4. The BSI investigation determined that the spouse/father was in fact living with the appellant and their children during the period in question at the same address at an apartment in Lowell, Massachusetts. This domicile was confirmed by Clear database reports, the Registry of Motor Vehicles, the Lowell postmaster, and the IRS (Exhibit 3).
5. Upon review, the overpayment was slightly reduced from \$10,500.21 to \$10,374.21. For the years 2020 and 2022, the family was eligible for MassHealth with no premium. For 2021, the household of five had income of \$104,331.00 making the family eligible for Health Safety owing claims and capitation rates that totaled \$10,374.21 (Exhibit 3.)
6. The appellant filed for divorce in 2018, and her divorced became final in October 2021 (Exhibit 4).
7. The record was left open for 30 days for the appellant to submit proof that the ex-spouse had a different address than her Lowell address for the period in question (Exhibit 5).
8. No such documentation was submitted during the record-open period, however (Exhibit 5).

Analysis and Conclusions of Law

Recovery of Overpayment of Medical Benefits. MassHealth has the right to recover payment for medical benefits to which the member was not entitled, regardless of who was responsible and whether or not there was fraudulent intent. No provision under 130 CMR 501.012 will limit MassHealth's right to recover overpayments. See 130 CMR 501.012.

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. 130 CMR 501.010(A).

Responsibility to Report Changes. The applicant or member must report to MassHealth, 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. 130 CMR 501.010(B).

In the instant case, I have found that the BSI investigated as to the appellant's MassHealth eligibility for the period August 6, 2020 to March 28, 2022. Thereafter, MassHealth informed the appellant that it was seeking recovery of \$10,500.21 (revised to \$10,374.21) paid out on his behalf because it determined that the appellant's household was not entitled to the MassHealth she received for the period.

The record shows that the appellant completed a MassHealth application for herself and three children on August 6, 2020. Subsequent applications were completed on August 10, 2020, June 5, 2021, and August 15, 2021. The appellant's spouse and father of the children was not included on any of the applications, nor was his income included.

The BSI investigation determined that the spouse/father was in fact living with the appellant and their children during the period in question at the same address at an apartment in Lowell, Massachusetts. This shared living arrangement was confirmed by Clear database reports, the Registry of Motor Vehicles, the Lowell postmaster, and the IRS.

The appellant submitted documentation that she filed for divorce in 2018, and that her divorced became final in October 2021. Her contention was that his income should not be counted in the determination because he moved out in late 2018, shortly after the divorce. Unfortunately, notwithstanding that the appellant and her ex-spouse were divorced during

the review period, there is no evidence to support the appellant's claim that her ex-spouse, (and the father of their children) was not living at the same address during the period in question. This despite the opportunity given to the appellant to document her claims during a lengthy record-open period.

Accordingly. MassHealth was correct to include the appellant's ex-spouse in her household. The undisputed household income and calculations show that in 2021, the household of five had income of \$104,331.00 making the family eligible for Health Safety only owing claims and capitation rates that totaled \$10,374.21.

Therefore, based on the above evidence, as well as the regulations governing the responsibility of applicants and members disclosing changes to income and the availability of health insurance within 10 days, and MassHealth's right of recovery of overpayments, its action in calculating and seeking an overpayment recovery of \$10,374.21 in the appellant's case is warranted.

The appeal is therefore 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.

Stanley Kallianidis
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Mark Carey, MH OPS Integrity Unit, 100 Hancock St. 6th
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