

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206083
Decision Date:	11/17/2022	Hearing Date:	10/06/2022
Hearing Officer:	Alexis Demirjian	Record Open to:	October 14, 2022

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Mark Carey



*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
Decision Date:	11/17/2022	Hearing Date:	10/06/2022
MassHealth's Rep.:	Mark Carey	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 1 Remote s	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 of recovery of overpayment of member benefits dated August 3, 2022, MassHealth informed the Appellant that it was seeking to recover \$12,128.80 for benefits she received from 1/1/2016 to 12/31/2020 to which she was not entitled. (See 130 CMR 501.012, 515.010; Exhibit 2). The appellant filed this appeal in a timely manner on August 9, 2022. (See 130 CMR 610.015(B) and Exhibit 3).¹ MassHealth agency actions to recover payments for benefits to which the member was not entitled at the time the benefit was received are valid grounds for appeal before the Board of Hearings. (See 130 CMR 610.032).

Action Taken by MassHealth

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, and restated in MassHealth Operations Memo (EOM) 20-10 dated August 1, 2022, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

MassHealth informed the appellant that it seeks to recoup \$12, 128.80 for benefits the Appellant received from 1/1/2016 to 12/31/2020 to which she was not entitled.

Issue

Did the Appellant receive MassHealth benefits from January 1, 2016 to December 31, 2020 to which she was not entitled and, if so, can MassHealth recoup \$12,128.80 from the appellant for those benefits?

Summary of Evidence

A representative from the MassHealth Operations Integrity Unit testified an investigation was initiated based on a referral alleging that the Appellant failed to report that her household included the father of her children and failed to report his income to MassHealth, which affected her eligibility for MassHealth benefits. The Appellant has received MassHealth benefits from January 1, 2016 to December 31, 2020.

Upon receipt of the referral, Bureau of Special Investigations (“BSI”) accessed the MassHealth database and confirmed that the Appellant was enrolled as a household of 3, listing herself and two children. Then BSI requested MA state tax returns for the Appellant for years [REDACTED] – [REDACTED]. For the years 2018 and 2020, the Appellant claimed two dependents, Child A and Child B. Income listed in the tax returns for those years is as follows: \$4,377 for [REDACTED]; \$10,870 for [REDACTED]; \$16,703 for [REDACTED]; no taxes filed in [REDACTED]; and \$12,739 for [REDACTED].

BSI also requested MA state tax returns for the Appellant’s partner for the years 2016-2020. The Appellant’s partner listed the same home address as the Appellant listed on her tax returns for [REDACTED]. Additionally, for the years 2016 and 2017, the Appellant’s partner claimed Child A and B as dependents. The Appellant’s partner’s income listed in the tax returns for those years is as follows: \$44,779 for [REDACTED]; \$50,246 for [REDACTED]; \$57,472 for [REDACTED]; \$68,214 for [REDACTED]; and \$75,958 for [REDACTED].

Based on the information gleaned from BSI’s investigation, the Appellant failed to report the Appellant’s partner as a member of the household and failed to report his income to MassHealth, accordingly the Appellant was in receipt of \$12,128.80 in benefits she was not eligible to receive.

BSI based that calculation on the following information:

For 2016, combined income of \$49,156 for a household of 4 produces a Federal Poverty Level (“FPL”) of 202%, qualifying the member for ConnectorCare with a \$83/month premium for 12 months or \$996.00 total.;

For 2017, combined income of \$61,116 for a household of 4 produces an FPL of 248%, qualifying the member for ConnectorCare with a \$83/month premium for 12 months or \$996.00 total.;

For 2018, combined income of \$74,175 for a household of 4 produces an FPL of 295%, qualifying the member for ConnectorCare with a \$126/month premium for 12 months or

\$1,512.00 total.;

For 2019, combined income of \$68,214 for a household of 4 produces an FPL of 264%, qualifying the member for ConnectorCare with a \$126/month premium for 12 months or \$1,512.00 total.;

For 2020, combined income of \$88,697 for a household of 4 produces an FPL of 338%, qualifying the member the member for Health Safety Net, where all qualifying claims for the Appellant of \$82 and capitation payments of \$6,633.12 are owed. Child A and Child B qualified for CMSP with a combined monthly premium with a combined monthly premium of \$33.13/per month for 12 months or \$397.68.

The sum of those calculations equals the total amount owed to MassHealth is \$12,128.80.

(Exhibit 5).

The Appellant appeared at the fair hearing and testified that she was unaware that she needed to include the father of her children in the number of individuals included in the household because they are unmarried. Thus, she did not know that she needed to report his income to MassHealth.

The Appellant requested a brief record open period for the submission of full calculations that were completed by BIS. That information was received and incorporated into the record as Exhibit 6. On October 13, 2022, the Appellant sent a written response acknowledging her failure to include her partner in the application and failing to report his income and expressing contrition over that failure. That written response is incorporated into the record as Exhibit 7.

Findings of Fact

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

1. The appellant received MassHealth benefits from January 1, 2016 to December 31, 2020 as having reported income that made her financially eligible for benefits.
2. Based on the appellant's income that she self-reported, MassHealth determined he was financially eligible for MassHealth benefits from January 1, 2016 to December 31, 2020.
3. Based on information subsequently obtained by the Massachusetts Department of Revenue (DOR), the combined earnings for the Appellant and the Appellant's partner for the years [REDACTED] are as follows: \$49,156 for [REDACTED]; \$61,116 for [REDACTED]; \$74,175 for [REDACTED]; \$68,214 for [REDACTED]; and \$88,697 for [REDACTED].
4. The Appellant was not financially eligible for the MassHealth benefits she received from January 1, 2016 to December 31, 2020.

5. From January 1, 2016 to December 31, 2017, based on accurate and undisputed income, the Appellant would have been eligible for Commonwealth Care benefits with a monthly premium of \$83 per month, totaling \$996.00 per year.
6. From January 1, 2018 to December 31, 2019, based on accurate and undisputed income, the appellant would have been eligible for Commonwealth Care benefits with a monthly premium of \$126 per month, totaling \$1,512.00 per year.
7. From January 1, 2020 to December 31, 2020, based on accurate and undisputed income, the appellant would have been eligible for only Health Safety Net benefits, not MassHealth benefits. Based on this determination all qualifying claims for the Appellant of \$82 and capitation payments of \$6,633.12 are owed.
8. From January 1, 2020 to December 31, 2020, Child A and Child B qualified for CMSP with a combined monthly premium with a combined monthly premium of \$33.13/per month for 12 months or \$397.68.
9. From January 1, 2016 to December 31, 2020, the Appellant owes MassHealth \$12,128.80 for benefits she received and for which she was not eligible.
10. The Appellant did not dispute MassHealth's calculation of \$12,128.80 for the benefits it alleges she received from January 1, 2016 to December 31, 2020 to which she was not eligible.

Analysis and Conclusions of Law

MassHealth Regulations 501.010 (A) address the responsibilities of applicants and members:

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 obtain or maintaining available health insurance.

(Emphasis added.)

MassHealth Regulation 501.010 (B) addresses the responsibility of applicants and members 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.

(Emphasis added.)

The application for MassHealth benefits includes a section that requires the applicant to tell us about your household. The instructions state that you should include your unmarried partner who lives with you if you have children together who are younger than age 19. The application includes the statement:

The amount of help or type of program you may qualify for depends on the number of people in your household and their incomes. This information helps us make sure everyone gets the coverage they may be eligible for.

It also includes states the following:

COMPLETE STEP 2 FOR YOURSELF and ALL ADDITIONAL HOUSEHOLD MEMBERS who live with you, or anyone on your same federal income tax return if you file one. If you do not file a tax return, remember to still add household members who live with you.²

MassHealth regulations at 501.012 address recovery of overpayment of medical benefits as follows:

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***. No provision under 130 CMR 501.012 will limit the MassHealth agency's right to recover overpayments.

(Emphasis added.)

MassHealth asserted that the Appellant's applications for benefits failed to include accurate household composition information and income information, specifically the Appellant was living with the father of her children and failed to include him in the household or include his income.

The Appellant's failure to include her partner in the household composition and failure to include his income, resulted in overpayment of benefits for the period of January 1, 2016, through December 31, 2020. MassHealth obtained information from the Massachusetts DOR, and through tax return information was able to confirm that her partner lived with the Appellant and filed taxes as head of household in which he claimed the same minor children as dependents that the Appellant included in her MassHealth application.

The Appellant acknowledges that she failed to include her partner in the household composition and failed to report his income to MassHealth. The Appellant expressed genuine contrition for her omissions.

There was no dispute as to how MassHealth calculated the value of the benefits the Appellant

² <https://www.mass.gov/doc/massachusetts-application-for-health-and-dental-coverage-and-help-paying-costs-0/download> (last viewed on October 12, 2022).

received for which he was not eligible. Likewise, there was no dispute as to MassHealth's calculation of the amount it indicated the Appellant owes.

Even if there is no fraudulent intent on the part of the Appellant, MassHealth has the right to recovery.

I find MassHealth's testimony credible, as it is undisputed as to the total alleged overpayment amount. As a result, I find MassHealth's attempt to recover the overpayment of member benefits to be supported by the facts in the hearing record as well as the MassHealth regulation.

Therefore, this appeal is **Denied**.

The Appellant is encouraged to reach out to Cynthia Brown at the MassHealth Operations, who can be reached at (617) 367-5134 or Cynthia.A.Brown@Mass.Gov, to set up a payment plan.

Order for MassHealth

Proceed with collection efforts from the appellant for \$12,128.80.

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.

Alexis Demirjian
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186