Office of the Inspector General
Commonwealth of Massachusetts

Glenn A. Cunha
Inspector General

Ongoing Analysis of the Health Safety Net Trust Fund: MassHealth's New Prepayment Obligations

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Massachusetts Office of the Inspector General

Address:	**Phone:**	**Internet and Fax:**
Room 1311	(617) 727-9140	www.mass.gov/ig
John McCormack State Office Building	(617) 523-1205 (MCPPO Program)	(617) 723-2334 (fax)
One Ashburton Place	(800) 322-1323 (confidential 24-hour hotline)	
Boston, MA 02108		

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Introduction

A. The Office of the Inspector General

Created in 1981, the Office of the Inspector General ("Office") was the first state inspector general's office in the country. The Office's mission is to prevent and detect fraud, waste and abuse in the expenditure of public funds. The Office investigates allegations of fraud, waste and abuse at all levels of government; conducts programmatic reviews to identify systemic vulnerabilities and opportunities for improvement; and provides assistance to the public and private sectors to help prevent fraud, waste and abuse in government spending. The Office also offers a wide range of training programs designed to promote excellence in public procurement and to enhance public purchasing officials' ability to operate effectively.

The Office has considerable experience reviewing health care programs that have eligibility, documentation and verification components and has issued a number of analyses, reports and recommendations regarding Medicaid oversight, the Health Safety Net, health care reform and other health care topics. The Office also has expertise in developing fraud-control best practices for state agencies and municipalities.

Since 2004, the Legislature has mandated that the Office review the payment practices of the Uncompensated Care Pool Trust Fund ("Pool") – now known as the Health Safety Net Trust Fund ("HSN Trust Fund"). The HSN Trust Fund provides funds for the Health Safety Net ("HSN"), a health care program for eligible Massachusetts residents. In July 2012, the Legislature enacted Section 181 of Chapter 139 of the Acts of 2012, which directed the Office to study and review hospital practices, particularly those involving the care of the uninsured and underinsured, using funding from the HSN Trust Fund. Section 181 provides:

> Notwithstanding any general or special law to the contrary, in hospital fiscal year 2013, the office of the inspector general may continue to expend funds from the Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws, for costs associated with maintaining a pool audit unit within the office. The unit shall continue to oversee and examine the practices in all hospitals including, but not limited to, the care of the uninsured and the resulting free charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses on or before March 1, 2013. For the purposes of these audits,

allowable free care services shall be defined pursuant to said chapter 118G and any regulations adopted under that chapter.

B. The Health Safety Net

In 1985, the Legislature established the Pool as a financing mechanism to distribute the burden of bad debt and the cost of provide free care more equitably among acute care hospitals. The creation of the Pool was intended to help pay for the costs of providing care to the uninsured, and also to eliminate financial disincentives that a hospital might have to providing such care. The Pool helped to ensure access to needed health care services for Massachusetts residents with no other source of health care coverage.

In the Massachusetts health care reform law, Chapter 58 of the Acts of 2006 ("Chapter 58"), the Legislature created the HSN Trust Fund to replace the Pool and fund the HSN. The HSN provides access to essential health care services for low-income uninsured and underinsured Massachusetts residents and reimburses acute care hospitals and community health centers for allowable services provided to this population. To receive HSN coverage, individuals must meet various HSN eligibility requirements, including income and residency requirements. The HSN is not insurance, however, and it does not pay for the cost of services provided by independent groups such as private physicians and specialty care groups. The HSN is the payor of last resort in Massachusetts and will not pay for any claims that are covered by private insurance, Medicare or Medicaid.

Individuals apply for free care service at a hospital or community health center by filling out a Medical Benefits Request form ("MBR" or "application"). The MBR is used to apply for a number of public health care programs, including Medicaid and the HSN. The information applicants provide on the MBR is sent to MassHealth, the state entity within the Executive Office of Health and Human Services that administers the HSN, as well as many other state health care programs, including Medicaid.[1] Once MassHealth receives an individual's MBR information, the agency determines whether the individual is eligible for the HSN, based on state requirements established by Chapter 58. Before determining an individual's eligibility for the

[1] "MassHealth" is the name of the Massachusetts Medicaid program. The Massachusetts Office of Medicaid is also called "MassHealth." To avoid confusion, throughout this report the Medicaid program will be referred to as "Medicaid" and the state entity administering the program will be referred to as "MassHealth."

HSN, however, MassHealth checks to see if the individual is eligible for any other health care coverage, including private insurance, Medicare and Medicaid. The HSN covers only those claims for which there is no other coverage, and then only for those individuals who meet the HSN eligibility requirements.

Finally, MassHealth does not pay the same reimbursement rates for an HSN claim as it pays for a Medicaid claim. Rather, MassHealth must comply with the statutory requirements for HSN reimbursement. For example, HSN inpatient claims are to be paid as if the HSN was a Medicare-like payer.

C. Chapter 224 of the Acts of 2012

The Office's review of the HSN this year focuses primarily on Chapter 224 of the Acts of 2012 ("Chapter 224"), *An Act Improving the Quality of Health Care and Reducing Costs Through Increased Transparency, Efficiency and Innovation*. The Governor signed Chapter 224 on August 6, 2012. While Chapter 58 addressed eligibility determinations for the HSN, Chapter 224 transferred the overall administration of the HSN from the Division of Health Care Finance and Policy ("DHCFP") to MassHealth. Indeed, before the enactment of Chapter 224, DHFCP had already begun the process of shifting claims adjudication to MassHealth.[2]

In addition to transferring the administration of the HSN from DHFCP to MassHealth, Chapter 224 also created specific requirements for MassHealth's administration of the HSN. Section 266 of Chapter 224 ("Section 266") provides that:

> [MassHealth] shall, within 6 months of the passage of this act, take any and all necessary actions to ensure that Social Security numbers are required on all medical benefits request forms to the extent permitted by federal law and that Social Security numbers are provided by all applicants who possess them. Further, the executive office of health and human services shall, within 6 months of the effective date of this act, ensure that the identity, age, residence and eligibility of all applicants are verified before payments, other than emergency bad debt payments, are made by the Health Safety Net Trust Fund;
>
> If for any reason [MassHealth] or the executive office of health and human services determines that it is or will be unable to accomplish the foregoing within

[2] For more information about DHCFP's HSN claims adjudication, *see Ongoing Analysis of the Health Safety Net Trust Fund*, Office of the Inspector General, March 2011 ("2011 HSN report"), available at http://www.mass.gov/ig/publications/reports-and-recommendations/2011/hlth-2011-rpt.pdf.

> 6 months of the effective date of this act, said respective office shall submit a detailed report of the reasons for such inability to the clerks of the house of representatives and the senate within 6 months of the effective date of this act.

The Legislature enacted Section 266 to ensure that the MBR includes the requisite information to satisfy the eligibility rules not only of Medicaid but also of the HSN. The section therefore enhances MassHealth's ability to make appropriate HSN eligibility determinations.

Analysis of the Implementation of Section 266

The Office notes that Section 266 addresses some of the concerns that the Office raised in its 2011 HSN report.[3] That report called into question the control environment that MassHealth had for HSN eligibility. The Office has always viewed the HSN as a program that offers excellent benefits to applicants and their families and that deserves effective controls to protect it. Before granting coverage under the HSN, MassHealth bears the responsibility of gathering information about each individual's identity and eligibility to ensure that he meets the HSN's eligibility criteria. Section 266 places a greater, well-defined responsibility on MassHealth to gather more information about applicants and their families in order to make accurate eligibility determinations.

A. Mandatory Reporting of Social Security Numbers

Section 266 requires MassHealth to "ensure that Social Security numbers are required on all medical benefits request forms [*i.e.*, the MBR] to the extent permitted by federal law and that Social Security numbers are provided by all applicants who possess them." For the HSN, the Social Security number also allows MassHealth to perform a data check with the Department of Revenue regarding an applicant's income. Without a Social Security number, it is difficult for MassHealth to verify the income of the individuals applying for the HSN.[4]

In the past, the Office has pointed out a gap in the MBR regarding Social Security numbers. Specifically, the instructions on the MBR state:

> Give us a social security number (SSN) or proof that you have applied for an SSN for every family member who is applying for [Medicaid] or Commonwealth Care. However, you do not need to give us an SSN or proof you applied for an SSN to get MassHealth Limited, CMSP [the Child Medical Security Plan], Healthy Start, or the Health Safety Net.

Even before the enactment of Chapter 224, this instruction was problematic. By allowing individuals to omit their Social Security numbers, MassHealth is prevented from evaluating the

[3] *See* footnote 2.

[4] Because the Office's review focused on the HSN, this report uses phrases such as "HSN applicants" and "applying for the HSN." However, individuals cannot submit an application solely for the HSN. Rather, it is MassHealth's responsibility to identify the appropriate public health care program(s) for which the applicant is eligible.

applicant's income – and thus, their eligibility for the full range of available programs. The instruction also allows applicants to avoid providing a Social Security number by "selecting" the HSN.[5]

Similar language appears on page one of the MBR: "[Social security number] [r]equired, if one has been issued and this person is applying for [Medicaid] or Commonwealth Care, except for MassHealth Limited, CMSP, Healthy Start, or the Health Safety Net." And on page six the MBR states: "Family members who want to get only one or more of the following: MassHealth Limited, CMSP, Healthy Start, or the Health Safety Net, do not have to give us a social security number."

After the Office and other oversight agencies pointed out the weakness of the MBR language, the Legislature adopted Section 266, which requires MassHealth to ensure that applicants who have Social Security numbers provide them on the MBR to the extent allowed by federal law. Section 266 does not allow MassHealth to give the applicant the choice of whether to produce a Social Security number. Rather, Section 266 states that MassHealth "shall" take the necessary actions to ensure that "all" MBR applicants who possess Social Security numbers provide them, so long as MassHealth acts in conformity with federal law.

When the Office began this review, the MBR still allowed an applicant to omit his Social Security number if he was only applying for certain health care programs (including the HSN). The Office met with MassHealth staff and indicated that the Office's view was that Section 266 required MassHealth to change the MBR. The Office continued to work with MassHealth on this issue and is pleased to report that MassHealth staff has indicated that the agency intends to modify the MBR in March to require that all HSN applicants who possess Social Security numbers provide them on the MBR. The Office is pleased with MassHealth's intent to change the MBR to comply with this mandate because it will strengthen the HSN eligibility process, thereby protecting the HSN's limited resources.

Finally, MassHealth should revise its MBR, the MassHealth Member Booklet and all other related publications to make it clear that individuals cannot apply only for the HSN. As previously discussed, an individual seeking health care services completes an MBR; MassHealth

[5] The instruction is also inaccurate because applicants cannot choose to apply only for the HSN. MassHealth must determine the program for which an applicant is eligible and the HSN is the program of last resort.

then bears the responsibility of determining the appropriate public health care program(s) for which an individual is eligible.

B. Identity Verification

Section 266 continues to attempt to strengthen the control environment that MassHealth has created for program eligibility by directing MassHealth to "ensure that identity … of all applicants [is] verified before payments are made…." MassHealth staff reported that, to comply with Section 266, the agency will impose new documentation requirements and will update the database, known as "MA21," that it uses to determine an applicant's eligibility for benefits.

New Documentation Requirements. MassHealth reported that it will require HSN applicants to submit the same proof of identity that the agency requires from those seeking Medicaid benefits. Such proof will be a precondition for eligibility for the HSN. Currently, MassHealth accepts the following documents as proof of identity from Medicaid applicants, and will accept the same documentation from those applying for the HSN:

- U.S. passport
- Certificate of Naturalization
- Certificate of U.S. Citizenship
- A document issued by a federally recognized American Indian tribe showing membership in, enrollment in or affiliation with such tribe
- A state driver's license containing the individual's photo or other identifying information[6]
- A government-issued identity card containing the individual's photo or other identifying information
- U.S. military card or draft record
- Military dependent's identity card
- U.S. Coast Guard Merchant Mariner card
- Three or more of the following documents: marriage license, divorce decree, high school diploma, employer identification card, property deed or property title
- For individuals at least 16 years' old, school identification card with photograph[7]

[6] For children between the ages of 16 and 18, a driver's license that does not have a photograph is acceptable if it is accompanied by an affidavit from a parent, guardian or caretaker relative attesting to the child's date and place of birth.

[7] For children between the ages of 16 and 18, MassHealth also accepts a school identification card without a photograph if it is accompanied by an affidavit from a parent, guardian or caretaker relative attesting to the child's date and place of birth.

Moreover, for children under the age of 16, MassHealth also accepts medical records; school records verified by the child's school; or an affidavit from a parent, guardian or caretaker relative attesting to the child's date and place of birth.

Finally, for disabled individuals who are in residential-care facilities, MassHealth accepts an affidavit from the facility's director or administrator, but only if the disabled individual does not have or cannot get any of the documents listed above.

MA21 Updates. In order to meet the new identification verification mandate, MassHealth also changed the MA21 eligibility database. MA21 was originally programmed to place the applicant in the highest benefit service available. For an individual who did not verify identity, the MA21 system assigned the individual to the HSN, as long as the individual met the other eligibility criteria.

MassHealth reported that it changed MA21 as follows. When an applicant applies and does not provide identity verification, the MA21 system does not automatically assign the individual to the HSN. Instead the applicant will be given the opportunity to provide documentation to verify his identity.

The Office appreciates MassHealth's efforts to give applicants many different options for proving identity. Most of the acceptable forms of proof – such as passports, driver's licenses and school identification cards with photographs – are appropriate. However, certain forms of proof – specifically, medical records, school records and affidavits – are weaker and vulnerable to fraud.[8] For instance, school records in a child's name do not establish the identity of the child for whom benefits are sought.[9] Given the numerous other documents MassHealth accepts, the agency should reconsider accepting these forms of proof.

[8] Under federal law, the states have the option to accept weaker evidence of identity, such as high school and college diplomas, marriage certificates, or property titles. Before accepting a weaker form of evidence, however, states must first ensure that no other evidence of identity is available to the applicant. 42 C.F.R. 435.407(e)(3).

[9] Federal law permits states to accept these forms of identification. For establishing the identity of children under the age of 16, "a clinic, doctor, hospital or school record may be accepted for purposes of establishing identity". However, if a state accepts school records, it must verify those records with the issuing school. If no medical or school records are available, then states may accept an affidavit that a parent, guardian, or caretaker relative signs under the pains and penalties of perjury stating the child's date and place of birth. 42 C.F.R. 435.407(f).

C. Age Verification

Section 266 does not focus solely on identity; it also instructs MassHealth to verify an applicant's age before making HSN payments. An applicant's age is a relevant factor in determining the applicant's appropriate health care program. For example, the HSN defines a family to include children under the age of 19; that definition is used to determine need, family income and eligibility. Additionally, those who qualify for Medicare should not rely solely on Medicaid or the HSN. Moreover, if a child is the subject of a health insurance support order, commercial insurance – and not Medicaid or the HSN – might be the proper primary source of payment for the child's medical expenses.

Once MassHealth has determined that a person is eligible for either Medicaid or HSN benefits, MassHealth utilizes a database called the Medicaid Management Information System ("MMIS") to process and pay claims from service providers. MassHealth staff reported that MMIS contains specific edits, known as the correct coding initiative ("CCI"), to ensure that services billed to the HSN are clinically appropriate to the member's age. The CCI edits flag procedures that do not appear to be age-appropriate; the claims are then reviewed before payment. As the claim editing would occur before payment, MassHealth believes that this satisfies Section 266's mandate to verify age before payment of the claim.

The Office endorses the use of CCI edits. In its 2010 HSN report[10], the Office indicated that using CCI and other edits would help the HSN contain costs. CCI is available, however, because the administration sought to use economies of scale and combined the claims editing of HSN claims with Medicaid claims. The Office has always understood that such a move would greatly improve the editing efficiency of HSN claims.

As Section 266 speaks to verification prior to payment, the MMIS edits could satisfy the legislative mandate. However, the Office has concerns regarding the utilization of the MMIS edit in this manner. Section 266 requires MassHealth to verify the "age … of all applicants…." The term "applicant" denotes a person who is not yet determined to be eligible for the HSN.[11]

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[10] *Ongoing Analysis of the Health Safety Net Trust Fund*, March 2010, Office of the Inspector General, available at http://www.mass.gov/ig/publications/reports-and-recommendations/2010/hlth-2010-rpt.pdf.

[11] Indeed, the MassHealth regulations define an "applicant" as a person who completes and submits an MBR form. *See* 130 CMR 501.001 .

However, MassHealth does not use the MMIS edits to evaluate or review an individual's eligibility for the HSN. Rather, MassHealth uses the edits to determine whether a particular claim should be paid. Consequently, a claim could be rejected as not age-appropriate, but the member would remain on the HSN. Indeed, the MMIS edits do not verify the member's age at all; they review the age-appropriateness of the services the member received.

The Office is encouraged by MassHealth's use of claims editing for the HSN. Claims editing is an important check on reimbursement, and HSN claims should be edited as rigorously as Medicaid claims. Nevertheless, MassHealth should review Section 266 and evaluate methods for verifying age at the eligibility stage.

D. Residency Verification

Section 266 also requires MassHealth to verify the residency of every applicant for the HSN. The purpose of this requirement is to ensure that only Massachusetts residents benefit from the HSN.[12]

MassHealth reports that it verifies residency as follows. First, the applicant must include a Massachusetts address on the MBR. If the applicant lists an out-of-state address, he is not eligible for the HSN. Next, MassHealth mails a letter to the Massachusetts address that the applicant provides on the MBR. If the letter is returned to MassHealth as undeliverable, the file is closed and the applicant does not receive HSN coverage.

Finally, MassHealth also checks the Public Assistance Reporting Information System to ensure that the applicant is not receiving benefits from another state.[13] If the applicant is receiving benefits in another state, MassHealth requires him to provide proof of residency, which may include a lease, utility bill or school records containing the applicant's name. If MassHealth determines that the applicant is not a Massachusetts resident, coverage is supposed to be denied.

MassHealth's residency verification protocols should be strengthened. It is appropriate to require an applicant to include a Massachusetts address on the MBR. However, mailing a letter to the address listed on the MBR to see if it is returned does not confirm that the applicant

[12] There are exceptions to the residency requirement. For instance, an individual who is placed in an institution or foster care home in another state by a Massachusetts agency is considered a Massachusetts resident.

[13] This is a Medicaid requirement that MassHealth uses on all MBR applications.

currently lives in Massachusetts. There are myriad reasons that a letter may not be returned to MassHealth. For instance, mail can be forwarded to another address. A friend or relative may reside at the given address and accept mail for the applicant. Or a letter can simply be delivered to an address even though the addressee no longer lives there.

Furthermore, when reviewing the MA21 database, the Office noted that many applicants had given a post office box for their address. A post office box is not proof that an individual is living in Massachusetts.

Therefore, MassHealth should consider requiring each applicant to submit documents – such as a driver's license, mortgage statement, recent utility bill, cancelled personal check or W-2 form – which demonstrate that he is currently living in Massachusetts. This list is not exhaustive and the Office encourages MassHealth to evaluate additional forms of verification, including forms that individuals without a permanent address could provide. While an applicant may not be able to provide such information when he first applies for the HSN, he should be required to do so within a specified period of time after applying.

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Conclusion

MassHealth is making progress towards complying with Section 266. The agency should continue with its plans to require all HSN applicants who have Social Security numbers to provide them on the MBR to the extent allowed by federal law. MassHealth will also need to update all other related publications, including its instructions and its Member Booklet.

In addition, MassHealth generally has strong requirements for verifying an applicant's identity. The agency should, however, reconsider its use of medical records, school records and affidavits. Moreover, while the Office is encouraged by MassHealth's use of claims editing for the HSN, the agency should review Section 266 and evaluate methods for verifying age at the eligibility stage.

Similarly, MassHealth should strengthen its residency verification protocols. Mailing a letter to an address does not confirm that an applicant and his family are currently living in Massachusetts. MassHealth therefore should consider requiring each applicant to submit documents – such as a driver's license, mortgage statement, recent utility bill, cancelled personal check or W-2 form – which demonstrate that he is currently living in Massachusetts. MassHealth should evaluate additional methods of verification, including forms that individuals without a permanent address could provide.