

**Bureau of Special Investigations Annual Report Fiscal Year 2023 July 1, 2022–June 30, 2023 (Dec 27, 2023)**

<https://www.mass.gov/doc/bureau-of-special-investigations-annual-report/download>

In the FY 2023 BSI Annual Report, the Auditor reveals that pursuant to CMS Guidance, MassHealth is prohibited from collecting overpayments from its members, and that BSI has halted all civil recoveries in the MassHealth program.

Footnote 2

During FY23, BSI completed numerous fraud investigations related to EEC and MassHealth benefits. Notably, identified fraud amounts for both of these programs have decreased throughout this fiscal year. Administration changes and staffing transitions affected EEC's ability to complete BSI calculation requests. In addition, MassHealth ceased calculating member benefit overpayments in December 2022 because of uncertainty related to guidance from the Centers for Medicare and Medicaid Services (CMS). Specifically, CMS issued guidance to states declaring that "states cannot recover or recoup the cost of services from a beneficiary, even if they have been found after an administrative or criminal proceeding to have committed Medicaid beneficiary fraud or abuse." See <https://www.medicare.gov/federal-policy-guidance/downloads/covid-19-unwinding-faqs-oct-2022.pdf> at FAQ 31. To ensure compliance with this CMS guidance, MassHealth paused overpayment calculations from December 2022 through April 2023. EEC and MassHealth have since resumed completing BSI overpayment calculations, but not civil recoveries. BSI anticipates that future reports will include calculated overpayments and, when permitted by CMS, recoveries.

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In May 2023, BSI was notified that a directive from the Centers for Medicare and Medicaid Services prohibited MassHealth from collecting overpayments from its members. To comply with this new federal directive, BSI halted all civil recoveries in the MassHealth program and returned all completed investigations back to the agency. BSI has a continued pause on civil recoveries for completed MassHealth investigations.