

130 CMR: DIVISION OF MEDICAL ASSISTANCE

130 CMR 517.000: MASSHEALTH: UNIVERSAL ELIGIBILITY REQUIREMENTS

Section

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517.001: Universal Eligibility Requirements

All MassHealth applicants and members must meet the requirements of 130 CMR 517.000 as a condition of eligibility.

517.002: Residence Requirements

As a condition of eligibility, an applicant or member must be a resident of the Commonwealth of Massachusetts.

(A) Unless otherwise specified

- (1) individuals 21 years of age or older are residents of the Commonwealth if they are living in the Commonwealth and either
 - (a) intend to reside in the Commonwealth, with or without a fixed address; or
 - (b) have entered the Commonwealth with a job commitment or are seeking employment, whether or not they are currently employed; or
- (2) individuals 21 years of age and older who are not capable of stating intent as defined in 42 CFR 435.403(c) are residents of the Commonwealth if they are living in the Commonwealth; or
- (3) for any other non-institutionalized individuals 21 years of age and older not subject to 130 CMR 517.002(A)(1) or (2), their residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the Transitional Assistance to Families with Dependent Children (TAFDC) program.

(B) Unless otherwise specified

- (1) individuals younger than 21 years old are residents of the Commonwealth if they are capable of indicating intent, and are either married or emancipated from their parents, and meet the requirements of 130 CMR 517.003(A)(1); or
- (2) individuals younger than 21 years old not described in 130 CMR 517.002(B)(1) are residents of the Commonwealth if they are
 - (a) living in the Commonwealth, with or without a fixed address; or
 - (b) living with their parent or caretaker who is a resident of the Commonwealth in accordance with the requirements of 130 CMR 517.002(A)(1).

(C) Individuals of any age who are receiving a state supplementary payment (SSP) are residents of the Commonwealth if the Commonwealth is the state paying the SSP.

(D) Individuals of any age who are receiving federal payments for foster care and adoption assistance under Title IV-E of the Social Security Act are residents of the Commonwealth if the Commonwealth is the state where the individuals live.

- (E) (1) The individual's residency is considered verified if the individual has attested to Massachusetts residency and the residency has been confirmed by electronic data matching with federal or state agencies or information services.
- (2) If residency cannot be verified through electronic data matching or there is conflicting information, the MassHealth agency may require documentation to validate residency.

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(F) Acceptable proof of Massachusetts residency includes the following, as well as any other verification allowed as determined by the MassHealth agency:

- (1) copy of deed and record of most recent mortgage payment (if mortgage is paid in full, provide a copy of property tax bill from the most recent year);
- (2) current utility bill or work order dated within the past 60 days;
- (3) statement from a homeless shelter or homeless service provider;
- (4) school records (if school is private, additional documentation may be requested);
- (5) nursery school or daycare records (if school is private, additional documentation may be requested);
- (6) Section 8 agreement;
- (7) homeowner's insurance agreement;
- (8) proof of enrollment of custodial dependent in public school;
- (9) copy of lease and record of most recent rent payment; or
- (10) affidavit supporting residency, signed under pains and penalties of perjury that states the individual is not visiting Massachusetts for personal pleasure or to receive medical care in a setting other than a nursing facility.

(G) Examples of applicants or members who do not meet the residency requirement for MassHealth are

- (1) individuals who came to Massachusetts for the purpose of receiving medical care in a setting other than a nursing facility, and who maintain a residence outside of Massachusetts;
- (2) individuals visiting Massachusetts for personal pleasure, who maintain a residence outside of Massachusetts; and
- (3) individuals whose whereabouts are unknown.

(H) Inmates of penal institutions may not receive MassHealth benefits except under one of the following conditions, if they are otherwise eligible for MassHealth:

- (1) they are inpatients in a medical facility; or
- (2) they are living outside of the penal institution, are on parole, probation, or home release, and are not returning to the institution for overnight stays.

517.003: Residence of Institutionalized Individuals

(A) Placement by a Public Agency. An individual who has been placed in an institution or a foster care home in another state by a public agency of the Commonwealth shall be considered a resident of the Commonwealth. An individual placed in an institution or a foster care home in the Commonwealth by a public agency of another state shall be considered a resident of that state and not of the Commonwealth. If an individual who has been placed in an institution leaves the institution and is competent at the time of leaving, the individual is a resident of the Commonwealth if he or she is physically located in the Commonwealth.

(B) Other Institutionalized Individuals. Unless otherwise specified, residency for an institutionalized individual who has not been placed in the institution by a public agency is determined as follows.

- (1) If the individual is younger than 21 years old, is not married, and is not emancipated, or is 21 years of age or older and became incapable of indicating intent before 21 years old, the individual is a resident of the Commonwealth if
 - (a) the residence of the parent, parents, or legal guardian at the time of placement is the Commonwealth, regardless of the physical location of the individual;
 - (b) the current residence of the parent, parents, or legal guardian who filed the application is the Commonwealth, and the individual is institutionalized in the Commonwealth;
 - (c) in the case of an individual 21 years of age or older who became incapable of indicating intent before 21 years old, the current residence of a parent who filed the application is the Commonwealth, regardless of the physical location of the individual, if the parents reside in separate states; or
 - (d) the current residence of the person or party filing the application is the Commonwealth, the individual is institutionalized in the Commonwealth, and the individual has been abandoned by his or her parents and does not have a legal guardian.

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(2) If the individual is 21 years of age or older and became incapable of indicating intent at or after 21 years old, the individual's state of residence is the Commonwealth if he or she is institutionalized in the Commonwealth. For any other institutionalized individual 21 years of age or older, the individual is a resident of the Commonwealth if the individual is residing in and intends to reside in the Commonwealth.

517.005: Persons Institutionalized for Mental Disease

(A) Individuals younger than 18 years old and those 65 years of age or older, who are patients in a public or private institution for mental disease, may be eligible for MassHealth.

(B) Individuals who reach the age of 18 while they are patients in an institution for mental disease may be eligible for MassHealth until they reach age 22, provided they are disabled in accordance with Title XVI requirements.

(C) Individuals between 18 and 65 years of age who are patients in public or private institutions for mental disease are not eligible for MassHealth, except as provided in 130 CMR 517.005(B). Such individuals may establish eligibility for MassHealth when entering an acute hospital from a public or private institution for mental disease if otherwise categorically and financially eligible.

517.006: Social Security Number (SSN)

(A) Requirements.

(1) Condition of Eligibility. As a condition of eligibility for MassHealth, all persons applying in the household must furnish a SSN or proof of application for a SSN, except as provided in 130 CMR 517.006(A)(1). The applicant is notified of the obligation to apply for a SSN for any person applying in the household. The MassHealth agency does not require a SSN or proof of application for a SSN for any applicant who

- (a) attests to a religious exemption as described in federal law;
- (b) is only eligible for a non-work SSN; or
- (c) is not eligible to receive a SSN.

(2) Electronic Data Match. The MassHealth agency verifies each SSN by an electronic data match with the Social Security Administration (SSA).

(3) Reasonable Opportunity to Verify a Social Security Number. If the applicant has provided an SSN, the MassHealth agency matches with the SSA to verify the SSN. If the SSA is unable to verify the SSN, the individual is required to verify his or her SSN.

- (a) The MassHealth agency provides applicants and members a reasonable opportunity period to provide a SSN if SSA is unable to verify the SSN or the individual has not provided the SSN.
- (b) The reasonable opportunity period begins on, and will extend 90 days from, the date on which an applicant or member receives a Request for Information.
- (c) While the verification of SSN is pending, the individual will receive benefits if there are no other verifications outstanding.

(B) Right to Know Uses of Social Security Numbers. All household members are given a written notice of the following:

- (1) the reason the SSNs are requested;
- (2) the computer matching of SSNs with SSNs in other personal data files within
 - (a) the MassHealth agency;
 - (b) the Federal Data Hub, which matches with the SSA;
 - (c) the Department of Homeland Security (DHS);
 - (d) the Internal Revenue Service;
 - (e) other federal and state agencies and other informational services; and
- (3) the possible denial or termination of benefits, if any applicant or member fails to provide his or her SSN or proof of application for a SSN, unless an exception described in 130 CMR 517.006(A)(1) applies to the applicant or member.

517.007: Utilization of Potential Benefits

(A) An applicant or member must take all necessary steps to obtain benefits to which he or she is legally entitled, or for which he or she may be eligible, unless he or she can show that doing so would put the applicant, member, or any of the applicant's or member's family members in harm by supplying information to the policyholder in cases where there is demonstrated necessity for restricting such access. Benefits under this provision include, but are not limited to,

- (1) Social Security benefits;
- (2) Railroad Retirement benefits;
- (3) federal Veterans' Administration benefits, including payment provided by the Veterans' Administration to purchase Aid and Attendance;
- (4) civil service annuities;
- (5) unemployment compensation;
- (6) workers' compensation;
- (7) state retirement benefits; and
- (8) any benefits to which the applicant or member is legally entitled and any share in any estate to which the applicant or member is entitled. Members are not required to maintain a health plan if its cost causes financial hardship to the member.

(B) The applicant or member who is otherwise eligible for MassHealth will receive MassHealth benefits while claims for other benefits are pending provided that MassHealth eligibility is redetermined when such benefits are received.

(C) Applicants and members are not required to apply for Transitional Assistance to Families with Dependent Children (TAFDC), Emergency Aid to the Elderly, Disabled and Children (EAEDC), Supplemental Security Income (SSI), or Massachusetts state veterans' service benefits as a condition of receiving MassHealth only.

517.008: Potential Sources of Health Care

The MassHealth agency is payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law.

(A) Health Insurance. Every applicant and member must obtain and maintain health insurance available at no cost to the member including, but not limited to, Medicare and insurance purchased by the MassHealth agency in accordance with 130 CMR 506.012: *Premium Assistance Payments*. Failure to do so may result in loss of eligibility.

(B) Use of Benefits. The MassHealth agency does not pay for any health care and related services that are available

- (1) through the member's health insurance, if any; or
- (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services.

517.009: Assignment of Rights to Medical Support and Third-party Payments

(A) Every legally able applicant or member must assign to the MassHealth agency his or her rights to medical support and third-party payments for medical benefits provided under Mass-Health as well as the rights of applicants or members for whom he or she can legally assign medical support and third-party payments.

(B) The applicant or member must fully cooperate with the MassHealth agency in

- (1) establishing paternity;
- (2) obtaining any medical support and payments; and
- (3) identifying and providing information to assist the MassHealth agency in pursuing third parties, including a noncustodial parent, who may be legally obligated to pay for care and services for the applicant or member, or person on whose behalf benefits are requested, unless the applicant or member has grounds to waive cooperation as described in 130 CMR 517.010 or 505.002(D): *Eligibility Requirements for Pregnant Women*.

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- (C)(1) The MassHealth agency will deny eligibility for any applicant who does not attest to a willingness to cooperate and terminate eligibility for any member who refuses to cooperate, unless the applicant or member demonstrates good cause, as described in 130 CMR 517.010, or is a pregnant woman who meets the requirements of 130 CMR 505.002(D): *Eligibility Requirements for Pregnant Women*.
- (2) The MassHealth agency will not deny or terminate eligibility of any applicant or member who cannot legally assign his or her own rights, including, but not limited to, a minor child, and who would otherwise be eligible but for the refusal, by a person legally able to assign the child's rights, to assign the child's rights or to cooperate as required in 130 CMR 517.009.

517.010: Waiver of Cooperation for Good Cause

- (A) Good cause is established if
- (1) with respect to the obligation to establish paternity of a child born out of wedlock, obtain medical-care support and payments, or identify or provide information to assist the MassHealth agency in pursuing a liable third party for a child for whom the applicant or member can legally assign rights, the MassHealth agency finds that cooperation is against the best interest of the child; or
- (2) with respect to the obligation to cooperate in all cases not covered by 130 CMR 517.010(A)(1), the MassHealth agency finds that cooperation is not in the best interest of the applicant or member or the person for whom the benefit is being requested or furnished because it is anticipated that cooperation will result in reprisal against, and cause serious physical or emotional harm to, the applicant or member or another person.
- (B) Good cause for noncooperation includes, but is not limited to, the following circumstances:
- (1) the child was conceived as a result of incest or forcible rape;
- (2) legal proceedings for adoption are pending before a court;
- (3) a public agency or licensed facility is assisting in resolving the issue of adoption and discussions have not lasted longer than three months; or
- (4) cooperation would result in serious physical or emotional harm to the child, the relative with whom the child resides, or to the applicant or member.

517.011: Assignment of Rights to Spousal Support

An institutionalized spouse, whose community spouse refuses to cooperate or whose whereabouts is unknown, will not be ineligible due to

- (A) assets determined to be available for the cost of care in accordance with 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; or
- (B) his or her inability to provide information concerning the assets of the community spouse when one of the following conditions is met:
- (1) the institutionalized spouse assigns to the MassHealth agency any rights to support from the community spouse;
- (2) the institutionalized spouse lacks the ability to assign rights to spousal support due to physical or mental impairment as verified by the written statement of a competent medical authority; or
- (3) the MassHealth agency determines that the denial of eligibility, due to the lack of information concerning the assets of the community spouse, would otherwise result in undue hardship.

517.012: Assignment for Third-party Recoveries

As a condition of eligibility, an applicant or member must inform the MassHealth agency when the individual or spouse is involved in an accident, or suffers from an illness or injury, or other loss that has resulted or may result in a lawsuit or insurance claim. The applicant or member must

- (A) file an insurance claim for compensation; and

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- (B) agree to comply with all requirements of M.G.L. c. 118E, § 22 including, but not limited to,
- (1) assigning to the MassHealth agency or its agent the right to recover an amount equal to the MassHealth benefits provided from the proceeds of any claim or other proceeding against a third party;
 - (2) providing information about the claim or any other proceeding, and fully cooperating with the MassHealth agency or its agent, unless the MassHealth agency determines that cooperation would not be in the best interests of, or would result in serious physical or emotional harm to, the applicant or member, in accordance with 130 CMR 517.010;
 - (3) notifying the MassHealth agency in writing within ten days of filing any claim, civil action, or other proceeding; and
 - (4) repaying and cooperating fully with the MassHealth agency or its agent to ensure the member's legal representative repays the MassHealth agency from the money received from a third party for all MassHealth benefits provided on or after the date of the accident or other incident; provided that if the member is involved in an accident or other incident after becoming MassHealth eligible, repayment will be limited to MassHealth benefits provided as a result of the accident or incident.

REGULATORY AUTHORITY

130 CMR 517.000: M.G.L. c. 118E, §§ 7 and 12.