

130 CMR 518.000: MASSHEALTH: CITIZENSHIP AND IMMIGRATION

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518.001: Introduction

Persons applying for or receiving MassHealth must verify their citizenship and identity or immigration status. Citizens and nationals who receive Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI) based upon disability, or Medicare (including those who are entitled to Medicare), and children in receipt of either Title IV-B services or Title IV-E adoption assistance or foster care payments do not need to submit verification. In addition, a child born to a woman who is eligible for MassHealth on the date of the child's birth is exempt from providing citizenship and identity verification as described in 130 CMR 518.004(E).

518.002: U.S. Citizens

A citizen of the United States is

- (A) an individual who was born in the United States or its territories, including Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI), except those born to a foreign diplomat, and who otherwise qualifies for U.S. citizenship under § 301 *et seq.* of the Immigration and Nationality Act (INA);
- (B) an individual born of a parent who is a U.S. citizen or who otherwise qualifies for U.S. citizenship under § 301 *et seq.* of the INA;
- (C) a naturalized citizen; or
- (D) a national (both citizen national and noncitizen national) as defined in 130 CMR 518.002(D)(1) or (2).
 - (1) Citizen National. A citizen national is an individual who otherwise qualifies as a U.S. citizen under § 301 *et seq.* of the INA.
 - (2) Noncitizen National. A noncitizen national is an individual who was born in one of the outlying possessions of the United States, including American Samoa and Swain's Island, to a parent who is a noncitizen national.

518.003: Immigrants

- (A) Lawfully Present Immigrants. Qualified noncitizens, qualified noncitizens barred, and nonqualified individuals lawfully present are considered lawfully present immigrants. The applicable coverage types for qualified noncitizens, qualified noncitizens barred, and nonqualified individuals lawfully present are listed at 130 CMR 518.006.
 - (1) Qualified Noncitizens. There are two types of qualified noncitizens:
 - (a) those who are qualified regardless of when they entered the U.S. or how long they have had a qualified status. Such individuals are
 - 1. persons granted asylum under § 208 of the INA;
 - 2. Refugees admitted under § 207 of the INA;
 - 3. persons whose deportation has been withheld under § 243(h) or 241(b)(3) of the INA, as provided by § 5562 of the federal Balanced Budget Act of 1997;
 - 4. veterans, their spouses, and their children;
 - a. veterans of the United States Armed Forces with an honorable discharge not related to their noncitizen status;
 - b. Filipino war veterans who fought under U.S. command during WWII;

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- c. Hmong and Highland Lao veterans who are admitted for legal permanent residence (LPR) and who fought under U.S. command during the Vietnam War;
 - d. persons with noncitizen status on active duty in the U.S. Armed Forces, other than active duty for training; or
 - e. the spouse, unremarried surviving spouse, or unmarried dependent children of the noncitizen described in 130 CMR 518.003(A)(1)(a)4.a. through d.;
5. Conditional Entrants under § 203(a)(7) of the INA in effect before April 1, 1980;
 6. persons who entered as Cuban/Haitian entrants under § 501(e) of the Refugee Education Assistance Act of 1980;
 7. Native Americans with at least 50% American Indian blood who were born in Canada pursuant to § 289 of the INA or other tribal members born in territories outside of the U.S. pursuant to 25 U.S.C. 450b(e), under Medicaid;
 8. Amerasians as described in § 402(a)(2)(A)(i)(V) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA);
 9. Victims of severe forms of trafficking, and spouse, child, sibling, or parent of the victim in accordance with the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106-386);
 10. Iraqi Special Immigrants granted special immigrant status under § 101(a)(27) of the INA, pursuant to § 1244 of Public Law 110-181 or § 525 of Public Law 110-161;
 11. Afghan Special Immigrants granted special immigrant status under § 101(a)(27) of the INA, pursuant to § 525 of Public Law 110-161; or
 12. Migrants from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who legally reside in the United States pursuant to a series of treaties with the United States known as the Compacts of Free Association (COFA), under Medicaid.
 - a. COFA migrants who adjust to legal permanent residence (LPR) status will have a special five-year bar rule applied. The individual will be subject to the special five-year bar rule unless they also have or had a status listed at 130 CMR 518.003(A)(1)(a). The special five-year bar rule that applies will depend upon the date the individual adjusted to LPR status.
 - b. COFA migrants who adjust to LPR status after the change of law on December 27, 2020, will be able to use the date they began residing in the United States as a COFA migrant or December 27, 2020, whichever is later, as the first day for purposes of meeting the five-year bar.
 - c. COFA migrants who adjusted to LPR status before the change of law on December 27, 2020, will have the five-year bar period begin on the date that they adjusted to LPR.
- (b) noncitizens who are qualified based on having a qualified status identified at 130 CMR 518.003(A)(1)(b)1. and who have satisfied one of the conditions listed at 130 CMR 518.003(A)(1)(b)2. Such individuals are
1. persons who have one or more of the following statuses:
 - a. admitted for LPR under the INA; or
 - b. granted parole for at least one year under section 212(d)(5) of the INA; or
 - c. are the battered spouse, battered child, or child of battered parent, or parent of battered child who meets the criteria of section 431(c) of PRWORA; and also
 2. satisfy at least one of the three following conditions:
 - a. have had a status in 130 CMR 518.003(A)(1)(b)1. for five or more years (a battered noncitizen attains this status when the petition is accepted as establishing a *prima facie* case);
 - b. entered the U.S. prior to August 22, 1996, regardless of status at the time of entry, and have been continuously present in the U.S., until attaining a status listed in 130 CMR 518.003(A)(1)(b)1.; for this purpose an individual is deemed continuously present who has been absent from the U.S. for no more than 30 consecutive days or 90 nonconsecutive days prior to attaining a status listed in 130 CMR 518.003(A)(1)(b)1.; or
 - c. also have or had a status listed in 130 CMR 518.003(A)(1)(a).
- (2) Qualified Noncitizens Barred. Individuals who have a status listed in 130 CMR 518.003(A)(1)(b)1. (Legal Permanent Resident, parolee for at least one year, or battered noncitizen) and do not meet one of the conditions in 130 CMR 518.003(A)(1)(b)2. Qualified

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noncitizens barred, like qualified noncitizens, are lawfully present nonqualified individuals. (3) Nonqualified Individuals Lawfully Present. Nonqualified individuals lawfully present are not defined as qualified under PRWORA, 8 U.S.C. § 1641, but are lawfully present. Nonqualified individuals lawfully present are as follows:

- (a) in a valid nonimmigrant status as otherwise defined in 8 U.S.C. § 1101(a)(15) or otherwise under immigration laws (as defined in 8 U.S.C. § 1101(a)(17));
- (b) paroled into the United States in accordance with 8 U.S.C. § 1182(d)(5) for less than one year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
- (c) belong to one of the following classes:
 - 1. granted Temporary Resident Status in accordance with 8 U.S.C. § 1160 or 1255(a) respectively;
 - 2. granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. § 1254(a), and individuals with pending applications for TPS who have been granted employment authorization;
 - 3. granted employment authorization under 8 CFR 274a.12(c);
 - 4. Family Unity beneficiaries in accordance with § 301 of Public Law 101-649;
 - 5. under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
 - 6. granted Deferred Action status, except for applicants or individuals granted status under the United States Department of Homeland Security (DHS) Deferred Action for Childhood Arrivals Process (DACA);
 - 7. granted an administrative stay of removal under 8 CFR part 241;
 - 8. beneficiary of approved visa petition who has a pending application for adjustment of status;
- (d) have a pending application for asylum under 8 U.S.C. § 1158, or for withholding of removal under 8 U.S.C. § 1231 or under the Convention Against Torture Treaty who
 - 1. have been granted employment authorization; or
 - 2. are younger than 14 years old and have had an application pending for at least 180 days;
- (e) have been granted withholding of removal under the Convention Against Torture Treaty; or
- (f) is a child who has a pending application for Special Immigrant Juvenile status, as described in 8 U.S.C. § 1101(a)(27)(J).

(B) Protected Noncitizens. Noncitizens who are not qualified noncitizens as described in 130 CMR 518.003(A)(1) but who are qualified noncitizens barred as described at 130 CMR 518.003(A)(2), nonqualified individuals lawfully present as described in 130 CMR 518.003(A)(3), nonqualified persons residing under color of law (PRUCOLs) as described in 130 CMR 518.003(C), or other noncitizens as described in 130 CMR 518.003(D), are considered protected noncitizens and may continue to receive MassHealth regardless of immigration status, if they meet one of the following conditions and are otherwise eligible. This status continues until a determination of ineligibility due to failure to meet categorical or financial eligibility requirements has been made.

- (1) They were receiving medical assistance on June 30, 1997.
- (2) They had a long-term-care application pending on July 1, 1997.
- (3) They lived in a long-term-care facility on June 30, 1997, but had not yet applied for MassHealth.

(C) Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs). Certain noncitizens who are not described at 130 CMR 518.003(A) or (B) may be permanently living in the United States under color of law. The applicable coverage types for nonqualified PRUCOLs are listed at 130 CMR 518.006. If not otherwise described in 130 CMR 518.003(A) or (B), the following are considered nonqualified PRUCOLs:

- (1) noncitizens living in the United States in accordance with an Indefinite Stay of Deportation;
- (2) noncitizens living in the United States in accordance with an Indefinite Voluntary Departure;

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- (3) noncitizens and their families who are covered by an approved immediate relative petition, who are entitled to Voluntary Departure, and whose departure the DHS does not contemplate enforcing;
- (4) noncitizens granted Voluntary Departure by the DHS or an Immigration Judge, and whose deportation the DHS does not contemplate enforcing;
- (5) noncitizens living under Orders of Supervision who do not have employment authorization under 8 CFR 274a 12(c);
- (6) noncitizens who have entered and continuously lived in the United States since before January 1, 1972;
- (7) noncitizens granted Suspension of Deportation, and whose departure the DHS does not contemplate enforcing;
- (8) noncitizens with pending applications for asylum under 8 U.S.C. § 1158 or for Withholding of Removal under 8 U.S.C. § 1231 or under the Convention Against Torture Treaty who have not been granted employment authorization, or are younger than 14 years old and have not had an application pending for at least 180 days;
- (9) noncitizens granted DACA status or have a pending application for this status;
- (10) noncitizens who have filed an application, petition, or request to obtain a lawfully present status that has been accepted as properly filed but who have not yet obtained employment authorization and whose departure the DHS does not contemplate enforcing; or
- (11) any other noncitizens living in the United States with the knowledge and consent of the DHS, and whose departure the DHS does not contemplate enforcing. (These include persons granted Extended Voluntary Departure due to conditions in the noncitizen's home country based on a determination by the U.S. Secretary of State.)

(D) Other Noncitizens. Noncitizens whose status is not described in 130 CMR 518.003(A) through (C) are considered other noncitizens.

518.004: Verification of U.S. Citizenship and Identity and Immigration Status

(A) U.S. Citizenship and Immigration Status. MassHealth requires verification of U.S. citizenship or immigration status for all MassHealth applicants, except other noncitizens.

(1) The MassHealth agency will initiate electronic data matches as described in 130 CMR 516.004: *Matching Information* to attempt to verify U.S. citizenship or immigration status. If electronic data sources are unable to verify U.S. citizenship or immigration status, additional documentation will be required from the individual.

(2) Acceptable proof of U.S. citizenship is described in 130 CMR 518.005(A)(1) and (2). Individuals who fail to submit proof of U.S. citizenship within 90 days of the MassHealth agency's request will subsequently only be

(a) eligible for Children's Medical Security Plan (CMSP) if they meet the categorical requirements for CMSP described in 130 CMR 522.000: *MassHealth: Other Division Programs*; or

(b) eligible for MassHealth Standard for those who are pregnant if they meet the categorical requirements and financial standards described in 130 CMR 505.002(D): *Eligibility Requirements for Pregnant Women*.

(3) Acceptable proof of immigration status is described in 130 CMR 518.005(B). Individuals who fail to submit proof of immigration status within 90 days of the MassHealth agency's request will subsequently be eligible

(a) only for MassHealth Limited, if they meet the categorical requirements and financial standards of MassHealth Standard;

(b) for CMSP if they meet the categorical requirements for CMSP described in 130 CMR 522.000: *MassHealth: Other Division Programs*; or

(c) for MassHealth Standard if they are pregnant and meet the categorical requirements and financial standards described in 130 CMR 505.002(D): *Eligibility Requirements for Pregnant Women*;

(B) Identity. MassHealth requires verification of identity for U.S. citizens.

(1) The MassHealth agency will initiate electronic data matches as described in 130 CMR 516.004: *Matching Information* to attempt to verify identity. If electronic data sources are unable to verify identity, additional documentation will be required from the individual.

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- (2) Acceptable proof of identity is described in 130 CMR 518.005(A)(3).
- (3) U.S. citizens as described in 130 CMR 518.002 who fail to verify identity within 90 days of the MassHealth agency's request will subsequently only be eligible for
 - (a) CMSP if they meet the categorical requirements for CMSP described in 130 CMR 522.000: *MassHealth: Other Division Programs*; or
 - (b) MassHealth Standard if they are pregnant and meet the categorical requirements and financial standards as described in 130 CMR 505.002(D): *Eligibility Requirements for Pregnant Women*.

(C) Reasonable Opportunity to Verify Citizenship and Identity or Immigration Status. The MassHealth agency provides applicants and members a reasonable opportunity period to provide satisfactory documentary evidence of citizenship and identity or immigration status in accordance with 130 CMR 516.003(E): *Reasonable Opportunity to Verify Citizenship and Identity or Immigration Status*.

(D) Reasonable Opportunity Extension. Applicants or members who have made a good faith effort to resolve inconsistencies or obtain verification of citizenship and identity or immigration status may receive a 90-day extension in accordance with 130 CMR 516.003(F): *Reasonable Opportunity Extension*.

(E) Child Born to a MassHealth-eligible Individual. Regardless of the mother's immigration status, a child born to an individual who is eligible for MassHealth on the date of the child's birth will be deemed eligible for MassHealth from birth until the child's first birthday and is exempt from providing citizenship and identity verification for eligibility.

518.005: Documents for Verifying U.S. Citizenship and Identity and Immigration Status

(A) Acceptable Proof of U.S. Citizenship and Identity. Pursuant to 130 CMR 518.004(B), U.S. citizens must provide proof of both citizenship and identity.

(1) Acceptable Proof of Both Citizenship and Identity. The following documents are satisfactory proof of both citizenship and identity:

- (a) U.S. passport, including a U.S. Passport Card issued by the Department of State, without regard to any expiration date as long as such passport or Card was issued without limitation;
- (b) Certificate of Naturalization;
- (c) Certificate of U.S. Citizenship;
- (d) a document issued by a federally recognized Indian tribe, as published in the *Federal Register* by the Bureau of Indian Affairs within the U.S. Department of the Interior, and identifies the federally recognized Indian tribe that issued the document, identifies the individual by name, and confirms the individual's membership, enrollment, or affiliation with the tribe. These documents include, but are not limited to, a tribal enrollment card, a Certificate of Degree of Indian Blood, a tribal census document, and documents on tribal letterhead, issued under the signature of the appropriate tribal official that meet the requirements of 130 CMR 518.005(A)(1)(d).

(2) Acceptable Proof of Citizenship. If one of the documents listed in 130 CMR 518.005(A)(1) is not provided, the following documents are acceptable as satisfactory evidence to establish citizenship if also accompanied by an identity document listed in 130 CMR 518.005(A)(3):

- (a) U.S. public birth certificate showing birth in one of the 50 states (including the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the U.S. Virgin Islands (if born on or after January 17, 1917), American Samoa, Swain's Island, or the CNMI (if born after November 4, 1986, CNMI local time). The birth record may be issued by the state, commonwealth, territory, or local jurisdiction. However, if the document shows the individual was born in Puerto Rico, the U.S. Virgin Islands, or the CNMI before these areas became part of the U.S., the individual may be a collectively naturalized citizen;
- (b) cross-match with the Massachusetts Registry of Vital Statistics that documents a record of birth;
- (c) Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.;

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- (d) Report of Birth Abroad of a U.S. Citizen;
 - (e) certification of birth;
 - (f) U.S. Citizen I.D. card;
 - (g) Northern Mariana Identification Card, issued to a collectively naturalized citizen who was born in the CNMI before November 4, 1986;
 - (h) final adoption decree showing the child's name and U.S. place of birth, or, if the adoption is not final, a statement from state-approved adoption agency that shows the child's name and U.S. place of birth;
 - (i) evidence of U.S. civil service employment prior to June 1, 1976;
 - (j) U.S. military record showing a U.S. place of birth;
 - (k) data match with the Systematic Alien Verification for Entitlements (SAVE) Program or any other process established by the DHS to verify that an individual is a citizen;
 - (l) documentation that the child meets the requirements of § 101 of the Child Citizenship Act of 2000 (8 U.S.C. 1431);
 - (m) medical records including, but not limited to, hospital, clinic, or doctor records or admission papers from a nursing facility, skilled-care facility, or other institution that indicate place of birth;
 - (n) life, health, or other insurance records that indicate a U.S. place of birth;
 - (o) official religious records recorded in the U.S. showing that the birth occurred in the U.S.;
 - (p) school records, including preschool, Head Start, and day care, showing the child's name and U.S. place of birth;
 - (q) federal or state census records showing U.S. citizenship or a U.S. place of birth; and
 - (r) if an individual does not have one of the documents listed in 130 CMR 518.005(A)(2)(a) through (q), he or she may submit an affidavit signed by another individual, under penalty of perjury, who can reasonably attest to the individual's citizenship, and that contains the individual's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.
- (3) Acceptable Proof of Identity.
- (a) The following are acceptable proof of identity, provided such documentation has a photograph or other identifying information including, but not limited to, name, age, sex, race, height, weight, eye color, or address.
 1. identity documents listed at 8 CFR 274a.2(b)(1)(v)(B)(1), except a driver's license issued by a Canadian government authority;
 2. driver's license issued by a state or territory;
 3. school identification card;
 4. U.S. military card or draft record;
 5. identification card issued by the federal, state, or local government;
 6. military dependent's identification card; or
 7. U.S. Coast Guard Merchant Mariner card;
 - (b) for children younger than 19 years old, a clinic, doctor, hospital, or school record, including preschool or day care records;
 - (c) two documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to
 1. employer identification cards;
 2. high school and college diplomas (including high school equivalency diplomas);
 3. marriage certificates;
 4. divorce decrees;
 5. property deeds or titles;
 6. a pay stub from a current employer with the applicant's name and address preprinted, dated within 60 days of the application;
 7. census verification containing the applicant's name and address, dated not more than 12 months before the date of the application;
 8. a pension or retirement statement from a prior employer or pension fund stating the applicant's name and address, dated within 12 months of the application;
 9. tuition or student loan bill containing the applicant's name and address, dated not more than 12 months before the date of the application;
 10. utility bill, cell phone bill, credit card bill, doctor's bill, or hospital bill containing applicant's name and address, dated not more than 60 days before the date of the application;

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11. valid homeowner's, renter's, or automobile insurance policy with preprinted address, dated not more than 12 months before the date of the application, or a bill for such insurance with preprinted address, dated not more than 60 days before the date of the application;

12. lease dated not more than 12 months before the date of the application, or home mortgage identifying applicant and address; or

13. employment verification by means of W-2 forms or other documents bearing the applicant's name and address submitted by the employer to a government agency as a consequence of employment.

(d) a finding of identity from a federal or state agency including, but not limited to, a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual;

(e) a finding of identity from an Express Lane agency, as defined in § 1902(e)(13)(F) of the Social Security Act; or

(f) if the applicant does not have any document specified in 130 CMR 518.005(A)(3)(a) through (c) and identity is not verified under 130 CMR 518.005(A)(3)(d) or (e), the applicant may submit an affidavit signed, under penalty of perjury, by another person who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity, as described in 130 CMR 518.005(A)(3)(a). This affidavit does not have to be notarized.

(4) Verification of Citizenship or Identity by a Federal Agency or Another State. The MassHealth agency may rely, without further documentation of citizenship or identity, on a verification of citizenship or identity made by a federal agency or another state, if such verification was done on or after July 1, 2006.

(5) Assistance with Obtaining Documentation. The MassHealth agency will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of citizenship in a timely manner.

(B) Acceptable Proof of Immigration Status. Acceptable proof of immigration status includes any verification allowed under federal law as determined by the MassHealth agency.

(C) Documentary Evidence. A photocopy, *facsimile*, scan, or other copy of a document will be accepted to the same extent as an original document, unless information on the submitted document is inconsistent with other information available to the MassHealth agency or the MassHealth agency otherwise has reason to question the validity of the document, or the information on the document.

518.006: Applicable Coverage Types

(A) Citizens, qualified noncitizens, and protected noncitizens may receive MassHealth under any coverage type for which they are eligible as described in 130 CMR 519.000: *MassHealth: Coverage Types*.

(B) Qualified noncitizens barred and nonqualified individuals lawfully present may receive the following coverage:

(1) MassHealth Family Assistance if they are adults 65 years of age or older and meet the categorical requirements and financial standards as described in 130 CMR 519.013: *MassHealth Family Assistance* or are receiving Emergency Aid to the Elderly, Disabled and Children (EAEDC); or

(2) MassHealth Limited if they are adults 65 years of age or older and meet the categorical requirements and financial standards as described in 130 CMR 519.009: *MassHealth Limited*; or

(3) MassHealth Standard if they are younger than 21 years old or pregnant and meet the categorical and financial requirements described in 130 CMR 519.006: *Long-term-care Residents* or 519.007: *Individuals Who Would Be Institutionalized*.

(C) Nonqualified PRUCOLs may receive the following:

(1) MassHealth Family Assistance if they are adults 65 years of age or older and meet the categorical requirements and financial standards as described in 130 CMR 519.013: *MassHealth Family Assistance* or are receiving EAEDC; or

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(2) MassHealth Limited if they are adults 65 years of age or older and meet the categorical requirements and financial standards as described in 130 CMR 519.009: *MassHealth Limited*.

(D) Other noncitizens 65 years of age or older may receive only MassHealth Limited if they meet the eligibility requirements in 130 CMR 519.009: *MassHealth Limited*.

REGULATORY AUTHORITY

130 CMR 518.000: M.G.L. c. 118E, §§ 7 and 12.