

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2204616

**Decision Date:** 9/7/2022

**Hearing Date:** 07/21/2022

**Hearing Officer:** Alexis Demirjian

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Pamela Denham

**Interpreter:** Enzo



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility – Pregnancy Benefit
<b>Decision Date:</b>	9/7/2022	<b>Hearing Date:</b>	07/21/2022
<b>MassHealth's Rep.:</b>	Pamela Denham	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South 2 Remote	<b>Aid Pending:</b>	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 dated June 21, 2022, MassHealth approved the appellant's application for MassHealth Limited benefits because the applicant did not meet citizenship and immigration requirements nor did the applicant have a special circumstance such as pregnancy or disability (see 130 CMR 504.00, 130 CMR 505.02(A) and (E), 130 CMR 505.004 and Exhibit 2). The appellant filed this appeal in a timely manner on June 22, 2022 (see 130 CMR 610.015(B) and Exhibit 3).<sup>1</sup> Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth approved the appellant for MassHealth Limited.

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<sup>1</sup> 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.

## **Issue**

The appeal issue is whether MassHealth was correct in determining that the appellant was entitled to MassHealth Limited and not MassHealth Standard due to pregnancy, pursuant to 130 CMR 505.002 (A) and 130 CMR 504.000?

## **Summary of Evidence**

MassHealth testified that the appellant applied for MassHealth while in the hospital post-delivery. The application was filed online with the assistance of a hospital social worker. The appellant did not declare that she was pregnant on the application. MassHealth noted that the appellant is a non-citizen and eligible for MassHealth Limited and MassHealth Safety Net. MassHealth cited the language of Eligibility Operations Memorandum (EOM) 22-07 and Eligibility Operations Memorandum (EOM) 22-08, regarding eligibility criteria, that specifically state that a non-citizen may be entitled to MassHealth Standard provided that the pregnant person declared their pregnancy at the time of application.

The appellant testified that she was not informed that she would not be eligible for MassHealth Standard for failing to declare her pregnancy. The appellant did not contest the non-citizen classification and acknowledged that she was new to the United States. The appellant testified that she filled out the MassHealth application after she gave birth and was helped with the application by a hospital staff member. The appellant testified that she did not declare that she was pregnant on the application. The appellant did not apply for MassHealth benefits while she was still pregnant.

## **Findings of Fact**

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

1. The appellant gave birth to a child on June 13, 2022. (Testimony)
2. The appellant applied for MassHealth while admitted to the hospital post-delivery. (Testimony)
3. The appellant did not declare that she was pregnant on her MassHealth application. (Testimony)
4. The appellant has recently moved to the United States. (Testimony)
5. The appellant is not a U.S. Citizen. (testimony)
6. The appellant was determined to have a household size of 3 and monthly household income of 0% of the federal poverty level (FPL). (Exhibit 2)

7. The appellant was determined eligible for MassHealth Limited and MassHealth Safety Net starting June 11, 2022. (Exhibit 2)

## Analysis and Conclusions of Law

### 504.006: Applicable Coverage Types

(A) Citizens, qualified noncitizens, and protected noncitizens may receive MassHealth under any coverage type if they meet the eligibility requirements described in 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types.

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

(1) MassHealth Standard, if they are younger than 19 years old, young adults 19 and 20 years of age, or people who are pregnant and meet the categorical requirements and financial standards described in 130 CMR 505.002: MassHealth Standard; independent foster care children 18 through 20 years of age, and children younger than 19 years old and young adults 19 and 20 years of age who are receiving EAEDC.

(2) MassHealth CommonHealth, if they are younger than 19 years old and meet the categorical requirements and financial standards as described in 130 CMR 505.004: MassHealth CommonHealth;

(3) MassHealth Family Assistance, if they are children younger than 19 years old, disabled adults 21 through 64 years of age and meet the categorical requirements and financial standards as described in 130 CMR 505.005: MassHealth Family Assistance or adults 21 through 64 years of age who are receiving EAEDC;

(4) MassHealth Limited, if they are adults 21 through 64 years of age and meet the categorical requirements and financial standards as described in 130 CMR 505.006: MassHealth Limited; and

(5) Children's Medical Security Plan, if they are children younger than 19 years old and meet the categorical requirements and financial standards as described in 130 CMR 522.004: Children's Medical Security Plan (CMSP);

Under the American Rescue Plan Act (ARPA) of 2021 states were given the option to extend Medicaid and Children's Health Insurance Program (CHIP) postpartum coverage from 60 days to 12-months post-pregnancy. The eligibility criteria for this extension of coverage was detailed in two operation eligibility memorandums (EOM), dated April 2022 and May 2022.

EOM 22-07 (April 2022) provides that:

MassHealth will provide postpartum coverage to individuals, regardless of immigration status, with income up to 200% of the FPL. To be eligible for postpartum coverage, an individual **must declare they are pregnant during their pregnancy.**

EOM 22-08 (May 2022) provides that:

MassHealth will provide postpartum coverage to individuals, regardless of immigration status, who are in MassHealth Standard, CommonHealth, and Family Assistance. To be eligible for postpartum coverage, an individual **must declare they are pregnant during their pregnancy.**

Individuals enrolled in MassHealth CarePlus and Limited **may be** found eligible for MassHealth Standard provided **they meet the eligibility criteria and declare they are pregnant during their pregnancy.**

A non-citizen may be eligible for MassHealth Standard if they are pregnant. Pursuant to 130 CMR 505.002(A)(1). The appellant does not dispute the determination that she is a non-citizen and would only be entitled to MassHealth Standard if she were pregnant. Based on the date of the appellant's application, MassHealth determined that the appellant was eligible for MassHealth Limited and MassHealth Safety Net coverage. Though the appellant received coverage retroactively, and that retroactive coverage did include days when the appellant was still pregnant, she did not declare a pregnancy on her application because she was not pregnant at the time of her application.

Here the facts do not support the appellant's argument that she should be eligible to receive MassHealth Standard benefit due to pregnancy. EOMS 22-07 and 22-08 clearly state that an individual **must declare they are pregnant during their pregnancy**. The language of the EOMS 22-07 and 22-08 is clear and unambiguous. The appellant did not apply for MassHealth while pregnant, thus she could not declare the pregnancy during the pregnancy and is not entitled to the benefit. Accordingly, MassHealth's determination that the appellant was not eligible for MassHealth Standard was appropriate.

#### 505.006: MassHealth Limited

##### (B) Eligibility Requirements.

MassHealth Limited is available to the following:

(a) other noncitizens as described in 130 CMR 504.003(D): Other Noncitizens who are:

1. children younger than one year old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 200% of the federal poverty level (FPL);
2. children one through 18 years of age with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
3. young adults 19 and 20 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150 % of the FPL;
4. adult 21 through 64 years of age who are parents, caretakers, or adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL; and
5. disabled adults 21 through 64 years of age with modified adjusted gross income of the

MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;

(b) nonqualified PRUCOLs as described in 130 CMR 504.003(C): Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs) who are:

1. children younger than one year old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 200% of the federal poverty level (FPL);
2. children one through 18 years of age with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
3. young adults 19 through 20 years of age with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
4. adults 21 through 64 years of age who are parents, caretakers, or adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL; and
5. disabled adults 21 through 64 years of age with modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;

(c) qualified noncitizens barred, as described in 130 CMR 504.003(A)(2): Qualified Noncitizens Barred, and nonqualified individuals lawfully present, as described in 130 CMR 504.003(A)(3): Nonqualified Individuals Lawfully Present, who are:

1. adults, including parents and caretaker relatives, 21 through 64 years of age with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL;
2. disabled adults 21 through 64 years of age with modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;
3. parents and caretakers who are 21 through 64 years of age who are receiving EAEDC; and
4. adults 21 through 64 years of age who are receiving EAEDC.

The appellant is a non-citizen whose household consists of 3 and 0% of the FPL. Accordingly, she was determined to be eligible for MassHealth Limited. The facts and evidence support a finding that MassHealth correctly determined that the appellant was eligible for MassHealth Limited.

For these reasons, the appellant's appeal is DENIED.

## **Order for MassHealth**

None.

## **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.

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Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171