

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2208492
Decision Date:	12/15/2022	Hearing Date:	12/12/2022
Hearing Officer:	Sara E. McGrath		

Appearances for Appellant:



Appearances for MassHealth:

Christine Holm, Quincy MassHealth



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Eligibility
Decision Date:	12/15/2022	Hearing Date:	12/12/2022
MassHealth Rep.:	Christine Holm	Appellant Rep.:	Pro se
Hearing Location:	Board of Hearings (Remote)		

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 November 15, 2022, MassHealth notified the appellant that she is eligible for MassHealth Limited benefits, plus Health Safety Net coverage, effective August 30, 2020 (Exhibit 1). The appellant filed a timely appeal on November 15, 2022 (Exhibit 1). The scope of assistance is a valid ground for appeal (130 CMR 610.032(A)).

Action Taken by MassHealth

MassHealth notified the appellant that she is eligible for MassHealth Limited benefits, plus Health Safety Net coverage, effective August 30, 2020.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for an upgrade in coverage?

Summary of Evidence

The MassHealth representative appeared at hearing by telephone and testified in summary as follows: The appellant is an undocumented mother of two minor children who first applied for MassHealth benefits in 2017. Since August 30, 2020, the appellant has been eligible for MassHealth Limited benefits, plus coverage through the Health Safety Net. On [REDACTED], the appellant called MassHealth to inform the agency that she had given birth the previous day to her second child. On that same day, MassHealth notified the appellant that she is eligible for MassHealth Limited benefits, with Health Safety Net coverage (Exhibit 1).

The MassHealth representative testified that had the appellant timely notified MassHealth of her pregnancy, her coverage could potentially have been upgraded to MassHealth Standard benefits. Because she did not notify MassHealth of her pregnancy until after the birth of her child, she is not entitled to an upgrade in coverage.

The appellant appeared at hearing by telephone and testified with the assistance of a Portuguese interpreter. She agreed with the chronology as presented by the MassHealth representative above. She explained that she is new to this country and was unaware that she needed to notify MassHealth of her pregnancy. She stated that she found out she was pregnant in May. She went to all of her prenatal appointments, and had her baby at the hospital. At the hospital, she was told that she should call MassHealth to report the birth. A social worker told her to file an appeal because otherwise she may receive bills from the hospital. Although she has not yet received any bills related to her pregnancy and/or the child's birth, she explained that she does not have the funds to pay for any of it. She is not working and has two children. In the course of her testimony, the appellant also explained that the father of her second child has been living with her through her pregnancy, and is working.

The MassHealth representative responded and stated that MassHealth was not aware that the child's father lives in the household. She explained that the father needs to be added to the appellant's case as a member of her household, and that his income needs to be verified. The appellant agreed to call MassHealth's customer service number to add her partner to her case.

Findings of Fact

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

1. The appellant is an undocumented, single female in her mid-20s who lives in the community.
2. The appellant is not employed and has no other income.
3. The appellant has two minor children, one born in [REDACTED] and the other born on [REDACTED].

4. The appellant currently lives with her boyfriend and her two minor children; the appellant's boyfriend is the father of her second child.
5. Since August 30, 2020, the appellant has been eligible for MassHealth Limited benefits, plus Health Safety Net coverage.
6. On November 15, 2022, the appellant notified MassHealth of the birth of her second child.
7. On November 15, 2022, MassHealth notified the appellant that she is eligible for MassHealth Limited benefits, plus Health Safety Net coverage.
8. On November 15, 2022, the appellant appealed this determination to the Board of Hearings.

Analysis and Conclusions of Law

MassHealth initially determined that the appellant is eligible for MassHealth Limited benefits based on her status as an undocumented immigrant with no income. The appellant did not dispute her immigration status and agreed that she is undocumented. Without any evidence that the appellant is a noncitizen whose status is further described in 130 CMR 504.003(A) through (C)¹, the appellant is appropriately considered an "other noncitizen" (130 CMR 504.003(D)).

At issue in this appeal is whether the appellant is eligible for an upgrade in coverage. MassHealth maintains that based on her immigration status and failure to report her pregnancy, she not eligible for an upgrade. The applicable coverage types for "other noncitizens" are listed in 130 CMR 504.006, as follows:

(D) Other noncitizens may receive the following coverage:

(1) MassHealth Standard, if they are pregnant and meet the categorical requirements and financial standards as described in 130 CMR 505.002:

MassHealth Standard;

(2) MassHealth Limited, if they meet the categorical requirements and financial standards as described in 130 CMR 505.006: *MassHealth Limited*; and

(3) 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)*.

The appellant argues that she is eligible for this upgrade because of her recent pregnancy and the fact that she is unemployed (130 CMR 504.006(D)(1)). Claiming that she did not know the

¹ Those categories would include lawfully present immigrants, protected noncitizens, or nonqualified persons residing under color of law (130 CMR 504.003(A)-(C)).

laws, the appellant did not report her pregnancy to MassHealth during its pendency, but rather waited to call MassHealth until her child had been born. This oversight represents a failure to comply with the provisions of 130 CMR 501.010(B), which provides that it is the responsibility of the member to report to the MassHealth agency, within ten days or as soon as possible, any changes that may affect eligibility. However, the fair hearing regulations provide some recourse for the appellant, specifically via the application of the provision that provides that “[t]he effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted” (130 CMR 610.071(A)(2)). Thus, because the appellant met all MassHealth Standard eligibility conditions when she discovered she was pregnant in May, her failure to timely report this change to MassHealth should not affect the date of her coverage upgrade. The appellant has demonstrated that she met all of the eligibility requirements of MassHealth Standard in May, and thus she is eligible for an upgrade as of this date.²

This appeal is approved.

Order for MassHealth

Rescind notice on appeal and approve the appellant for MassHealth Standard coverage from May 1, 2022 through the end of her postpartum period (12 months from the date of birth, with an extension to the end of the month in which the 12-month period ends).³

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: Quincy MassHealth Enrollment Center

² As noted by the MassHealth representative, the appellant's boyfriend needs to be added to her case. Per 130 CMR 506.002, this addition should not affect the appellant's MAGI household composition, but may affect the MAGI household composition of her second child.

³ See Eligibility Operations Memo 22-12 (September 2022).

