

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306531
Decision Date:	09/20/2023	Hearing Date:	09/07/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:

Pro se

Appearance for MassHealth:

Josephine Porte, Quincy MassHealth
Enrollment Center

Interpreter:

Lenore Clemente



*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

Appeal Decision:	Denied	Issue:	Under 65; Eligibility; Immigration Status
Decision Date:	09/20/2023	Hearing Date:	09/07/2023
MassHealth's Rep.:	Josephine Porte	Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	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 July 10, 2023, MassHealth approved the appellant for MassHealth Limited coverage. Exhibit 1. The appellant filed this appeal in a timely manner on August 2, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032).

Action Taken by MassHealth

MassHealth found that the appellant was eligible only for MassHealth Limited benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is ineligible for benefits beyond MassHealth Limited.

Summary of Evidence

The appellant is an adult under the age of 65 who resides in a household of two. She appeared at hearing by telephone and was assisted by a Portuguese interpreter secured by the Board of

Hearings. The MassHealth representative is a worker from the Quincy MassHealth Enrollment Center and also appeared by telephone. The following is a summary of the testimony given and the evidence provided at hearing:

MassHealth records reflect that the appellant is an undocumented person who most recently qualified for the Health Safety Net. The appellant and her husband jointly filed taxes this year and submitted new information for their income, and as a result, MassHealth approved the appellant for MassHealth Limited benefits along with the Health Safety Net.

The appellant testified that, within the last several months, she has obtained Permanent Residency.¹ She has been in the United States since December 3, 2021, and no longer lacks proper documentation. In response to this testimony, the MassHealth representative reported that noncitizens need to have resided in the United States for at least five years in order to qualify for benefits beyond MassHealth Limited.

Findings of Fact

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

1. The appellant is an adult, under the age of 65, who resides in a household of two. Exhibit 1, Exhibit 4.
2. As of the date of the hearing, MassHealth records indicate that the appellant lacks proper documentation. Testimony.
3. The appellant has recently obtained Permanent Residency status and is lawfully present in the United States. Testimony.
4. The appellant has resided in the United States since December 2, 2021. Testimony.
5. The appellant is financially eligible for MassHealth Limited. Testimony.

Analysis and Conclusions of Law

Certain noncitizens may qualify for MassHealth benefits, depending on their legal status. The MassHealth regulations at 130 CMR 504.003 detail the circumstances in which these applicants may receive benefits. These regulations are divided into four different categories: Lawfully

¹ The appellant expressed some confusion about what date she received her green card. She referenced May 10th, 2023, and July 13, 2023, as relevant dates. I credit the appellant's representation that she is a permanent resident despite this confusion.

Present Immigrants (504.003(A)), Protected Noncitizens (504.003(B)), Nonqualified Persons Residing under Color of Law (504.003(C)), and Other Noncitizens (504.003(D)). As there is no evidence that the appellant has ever received MassHealth CommonHealth, she cannot be considered a Protected Noncitizen pursuant to 504.003(B); furthermore, there is no evidence that her current status qualifies her as a Nonqualified Persons Residing under Color of Law based on the myriad of options contained within 504.003(C). Thus, at issue for this appeal is whether she can be considered a Lawful Present Immigrant for purposes of MassHealth eligibility, or whether she is presently an Other Noncitizen under the regulations.

Within the category of Lawful Present Immigrant, there exist three separate categories: Qualified Noncitizen (504.003(A)(1)), Qualified Noncitizens Barred (504.003(A)(2)), and Qualified Individuals Lawfully Present (504.003(A)(3)). For the sake of clarity, there is no evidence in the record to suggest that the appellant is a Qualified Noncitizen Barred or a Qualified Individual Lawfully Present. Therefore, the question at issue is whether the appellant can be considered a Qualified Noncitizen or an Other Noncitizen.

It is relevant and necessary to determine whether this criterion applies to the appellant because each category of results in different eligibility for MassHealth. For instance, “qualified noncitizens...may receive MassHealth under any coverage type if they meet the eligibility requirements described in 130 CMR 505.000.” 130 CMR 504.006(A). However, Other Noncitizens may only receive the following coverage pursuant to 130 CMR 504.006(D):

- (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).

Therefore, is essential to determine which category applies to the appellant to decide whether she qualifies for coverage beyond MassHealth Limited.

Qualified noncitizens fall into two categories; the first category is considered “qualified regardless of when they entered the U.S. or how long they had a qualified status.” 130 CMR 504.003(A)(1)(a). An entire list of such persons can be found at 504.006(A)(1)(a)(1)-(12) and include asylees, refugees, and victims of human trafficking. The second category includes individuals who have been admitted for legal permanent residence but requires that such people have either possessed such status of five or more years, have been in the U.S. since 1996, or also fall into the first category of Qualified Noncitizen. See 130 CMR 504.003(A)(1)(b).

Here, there is no evidence in the record that the appellant is an asylee, refugee, or otherwise qualifies in the first category of Qualified Noncitizen. While I credit her sworn testimony that she has obtained permanent residency, she affirmed that she has only possessed such status for the last several months. Further, as she entered the United States in 2021, she does not meet the pre-1996 exception of 130 CMR 504.003(A)(1)(b). Although the appellant is a permanent resident, she cannot be considered a Qualified Noncitizen for purposes of applying to MassHealth because she has not had that status for more than five years.

Thus, under the regulations, the appellant is considered an Other Noncitizen and can only qualify for MassHealth coverage pursuant to 130 CMR 504.006(D). There is no evidence that the appellant is pregnant, and the evidence shows that she is over the age of 19, so she may not qualify for MassHealth Standard nor the CMSP. *Id.* The appellant has not met her burden of proof to demonstrate that she qualifies for coverage beyond MassHealth Limited. Because she meets the income requirement, MassHealth rightly determined that the appellant is eligible for MassHealth Limited under the regulations. The 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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