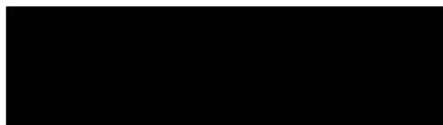


# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306735
Decision Date:	10/30/2023	Hearing Date:	09/14/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:



Appearance for MassHealth:

Micheal Bates, Quincy MEC

Interpreter:



*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; Immigration/Citizenship; Under 65
<b>Decision Date:</b>	10/30/2023	<b>Hearing Date:</b>	09/14/2023
<b>MassHealth's Rep.:</b>	Michale Bates	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote (phone)	<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 July 26, 2023, MassHealth approved appellant for MassHealth Limited and informed appellant he did not qualify for more MassHealth benefits because of his immigration status. (Ex. 1). The appellant filed this appeal in a timely manner on August 2, 2023. (Ex. 2). Denial of greater benefits is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied appellant greater benefits because of his immigration status.

### Issue

The appeal issue is whether MassHealth was correct in denying appellant greater benefits due to his immigration status.

---

<sup>1</sup> At hearing and after being sworn and giving his date of birth and last four of his social security number, appellant verbally appointed his stepfather as his appeal representative.

## Summary of Evidence

The appellant is an adult under the age of 65 but over 21 who resides in a household of one. He appeared at hearing by telephone and designated his stepfather as his appeal representative. The MassHealth representative is a worker from the Quincy MassHealth Enrollment Center who appeared by telephone. The following is a summary of the testimony given and the evidence provided at hearing: MassHealth acknowledged in their testimony that appellant was awarded permanent residency status in 2022. (Testimony; Ex. 5). The MassHealth representative stated that based on the record, appellant was only eligible for MassHealth Limited because he was still within the 5-year waiting period after obtaining permanent residence. He stated appellant could call the Health Connector because they may have options if appellant is experiencing hardship in paying any premium associated with MassHealth Limited.

Appellant's stepfather testified appellant was in the United States because he was at the age where he was subject to conscription into the Russian armed forces. (Testimony). He admitted in his testimony that appellant is not a refugee and there were no extenuating circumstances in the issuance of appellant's permanent residency card.

## 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 one and has no income. (Ex. 1, Ex. 4; Testimony).
2. The appellant has obtained Permanent Residency status within the last 5 years. (Ex. 5; Testimony).
3. The appellant is eligible for MassHealth Limited. (Testimony).

## Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

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 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, he cannot be considered a Protected Noncitizen pursuant to 504.003(B); furthermore, there is no evidence that his current status qualifies him 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 he can be considered a Lawfully Present Immigrant for purposes of MassHealth eligibility, or whether he 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 Nonqualified 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 because he does not meet the criteria in 130 CMR 504.003 (A)(1)(a) and while appellant does meet 504.003(A)(1)(b)1(a), he fails to meet the criteria in 504.003 (A)(1)(b)2, his status as a permanent resident not being less than 5 years, nor did appellant enter the U.S. prior to August 22, 1996; nor does appellant have, or had, a status listed in 130 CMR 504.003(A)(1)(a). There is no evidence appellant meets the criteria for Nonqualified Individuals Lawfully present at 504.003(A)(3). Because appellant is a permanent resident, he does meet criteria for Qualified Noncitizens Barred, pursuant to 130 CMR 504.003 (A)(2).

#### 504.006: Applicable 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; 8/19/22 130 CMR - 666.5 130 CMR: DIVISION OF MEDICAL ASSISTANCE 504.006: continued

**(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); (emphasis added).

The evidence supports that appellant meets the criteria for 504.006 (B)(4).

Thus, under the regulations, the appellant is considered a Qualified Noncitizen Barred and can only qualify for MassHealth coverage pursuant to 130 CMR 504.006 (B)(4). The appellant qualifies for MassHealth Limited because he meets the income requirement and has only had permanent residency status for less than 5 years. 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.

---

Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

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

Appeal Representative: [REDACTED]