

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308683
Decision Date:	12/12/2028	Hearing Date:	10/27/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Eric Mattos, Springfield 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

Appeal Decision:	Denied	Issue:	Immigration Status; Under 65
Decision Date:	12/12/2028	Hearing Date:	10/27/2023
MassHealth's Rep.:	Eric Mattos	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	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 August 24, 2023, MassHealth changed appellant's health benefits from MassHealth Standard to MassHealth Limited and informed appellant she did not qualify for more MassHealth benefits because of her immigration status. (Ex. 1). The appellant filed this appeal in a timely manner on September 19, 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 her immigration status.

Issue

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

Summary of Evidence

Appellant, the Russian interpreter and the MassHealth worker ("worker") all appeared by telephone and were sworn. The following is a summary of the testimony given and the evidence provided at hearing: MassHealth downgraded appellant from MassHealth Standard to MassHealth Limited based on her immigration status. After receiving appellant's completed renewal application in June 2022, appellant's initial immigration status was determined to be I-94, Qualified Non-Citizen. MassHealth did not find any verification of appellant's I-94 status. Subsequently, appellant submitted to MassHealth an immigration status of I-797 and this was electronically verified by MassHealth. This changed appellant's immigration status from Qualified Non-Citizen to Non-Qualified Individual Lawfully Present. (Testimony). The worker stated appellant is in a household of 2 with a monthly income of \$587.17.

Appellant testified she works and lives with her daughter who is under the age of 18. She stated she has a pending asylum case with a court hearing in [REDACTED]

Findings of Fact

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

1. The appellant is an adult, over the age of 21 but under the age of 65, who resides in a household of two and has income from authorized employment. (Ex. 1, Ex. 4; Ex. 5; Testimony).
2. Appellant is a parent. (Testimony).
3. The appellant has an asylum hearing pending in [REDACTED] with an immigration status of I-797. (Ex. 4, pp. 4-6; 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)).

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)). Nonqualified Individuals Lawfully Present is defined as:

(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:

...

(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;

Appellant has a pending application for asylum. (Testimony; Ex. 4, p. 4). Appellant also has employment authorization. (Testimony). Appellant meets the criteria for Nonqualified Individuals Lawfully Present pursuant to 504.003(A)(3). A determination is then made as to what type of coverage appellant is eligible for based upon her immigration status.

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;

(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**).

505.006: MassHealth Limited

(A) Overview. 130 CMR 505.006 contains the categorical requirements and financial standards for MassHealth Limited coverage for children, young adults, and adults 21 through 64 years old who are parents, caretakers, adults, and disabled adults.

(B) Eligibility Requirements

(1) MassHealth Limited is available to the following:

...

(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 old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL. (**emphasis added**).

...

The worker testified appellant is at less than 133% of the FPL. (Testimony). Appellant is between 21 and 64 years old and is a parent of a child under 18. (Ex. 5; Testimony).

Based upon the above, MassHealth correctly determined that 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: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186