

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2311185
<b>Decision Date:</b>	1/18/2024	<b>Hearing Date:</b>	12/5/2023
<b>Hearing Officer:</b>	Cynthia Kopka		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Aline Teixeira, Tewksbury

**Interpreter:**  
Portuguese



*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>	Under 65, eligibility, immigration status
<b>Decision Date:</b>	1/18/2024	<b>Hearing Date:</b>	12/5/2023
<b>MassHealth's Rep.:</b>	Aline Teixeira	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewksbury (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

By notice dated November 8, 2023, MassHealth determined that Appellant is eligible for MassHealth Limited effective July 22, 2023. Exhibit 1. Appellant filed this appeal in a timely manner on November 8, 2023. Exhibit 2. 130 CMR 610.015(B). Termination or modification of assistance is a valid basis for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth determined that Appellant is eligible for MassHealth Limited.

### Issue

The appeal issue is whether Appellant is eligible for MassHealth Standard.

### Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. Appellant is in a household of four. Appellant was previously approved for MassHealth Standard during her pregnancies and during the Covid-19 public health emergency. However, MassHealth

redetermined eligibility after the public health emergency ended. On August 1, 2023, MassHealth notified Appellant that she was eligible for MassHealth Limited and Health Safety Net. This was based on a household size of four and income that totaled 71.07% of the federal poverty level (FPL). MassHealth notified Appellant that her Standard coverage would terminate on August 15, 2023. MassHealth does not have any immigration documents on file for Appellant.

Appellant appeared by phone and testified that she has two small children and cannot work. Appellant has health conditions for which she has regular appointments. Without MassHealth Standard, she cannot see her doctors. Appellant also began dental work without knowing that her coverage would be terminated. Appellant is not currently pregnant.

Appellant does not have immigration documents. She is working on it but does not know when she will receive anything. Appellant testified that she thought MassHealth was available for those without money for healthcare. Appellant felt that the denial based on her immigration status was discriminatory.

## **Findings of Fact**

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

1. Appellant is in a household of four and under the age of 64.
2. Appellant's income is 71.07% of the FPL.
3. Appellant does not have immigration documents.
4. Appellant is not pregnant.
5. On November 8, 2023, MassHealth determined that Appellant is eligible for MassHealth Limited effective July 22, 2023. Exhibit 1.
6. Appellant filed this timely appeal on November 8, 2023. Exhibit 2.

## **Analysis and Conclusions of Law**

Eligibility for MassHealth benefits is determined based on both categorical requirements and financial standards. "MassHealth requires verification of U.S. citizenship or immigration status for all MassHealth applicants, except other noncitizens." 130 CMR 504.004(A). The regulations at 130 CMR 504.003 define the different categories of noncitizens based on immigration status, including lawfully present immigrants, protected noncitizens, nonqualified persons residing under color of law (PRUCOL), and other noncitizens. Other noncitizens are defined as those whose status is not

described in 130 CMR 504.003(A) through (C). 130 CMR 504.003(D).

According to 130 CMR 504.006(D), other noncitizens as defined by 130 CMR 504.003(D) are eligible for benefits 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 at 130 CMR 505.002: *MassHealth Standard*;
- (2) MassHealth Limited, if they meet the categorical requirements and financial standards as described at 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 at 130 CMR 522.004: *Children's Medical Security Plan (CMSP)*.

Pregnant individuals are eligible for MassHealth Standard as follows:

(D) Eligibility Requirements for People who are Pregnant.

- (1) A person who is pregnant is eligible if
  - (a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 200% of the federal poverty level (FPL); and
  - (b) the individual is a citizen as described in 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrant, nonqualified PRUCOL, **or other noncitizen as described in 130 CMR 504.003: *Immigrants*.**

130 CMR 505.002(D).

The relevant categorical requirements and financial standards for MassHealth Limited for other noncitizens are as follows:

(B) Eligibility Requirements.

(1) 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 old 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. adults 21 through 64 years old 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 old with modified adjusted gross income of the MassHealth Disabled Adult household that is less than or equal to 133% of the FPL;

130 CMR 505.006(B)(1).

Here, Appellant has not submitted immigration documents to demonstrate that she meets an immigration status as set forth in 130 CMR 504.003(A) through (C). As such, Appellant is considered an other noncitizen as defined by 130 CMR 504.003(D). Pursuant to 130 CMR 504.006(D)(1) and 130 CMR 505.002(D)(1), Appellant was eligible for MassHealth Standard when she was pregnant. This coverage remained in place due to the Covid-19 public health emergency protection.

Appellant is no longer pregnant and therefore no longer eligible for MassHealth Standard. As a noncitizen, she is eligible for MassHealth Limited pursuant to 130 CMR 504.006(D)(2) because she meets the requirements set forth in 130 CMR 505.006(B)(1)(a)(4). MassHealth was correct in making its determination. Accordingly this appeal is denied.

To the extent Appellant challenges the legality of the regulations on the basis of discrimination, the hearing officer cannot make such a ruling. 130 CMR 610.082(C)(2). Appellant must seek judicial review in accordance with 130 CMR 610.092. *Id.*

## **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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Cynthia Kopka  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290