

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2312442
Decision Date:	2/26/2024	Hearing Date:	01/04/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dermar Coleman, Quincy MassHealth
Enrollment Center

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:	Under 65; Eligibility; Immigration
Decision Date:	2/26/2024	Hearing Date:	01/04/2024
MassHealth's Rep.:	Dermar Coleman	Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	Yes

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 21, 2023, MassHealth downgraded the appellant's from MassHealth Family Assistance to MassHealth Limited coverage. Exhibit 1. The appellant filed this appeal in a timely manner on December 1, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging agency action regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032(5).

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 one. He was assisted

by a Spanish speaking interpreter secured by the Board of Hearings. The MassHealth representative is a worker from the Quincy MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony given and the evidence provided at hearing:

The appellant applied for MassHealth benefits in July of 2023. At that time, he was temporarily placed on MassHealth Family Assistance pending verification of his immigration status. As of the date of hearing, MassHealth has only received an expired foreign passport, and the appellant has provided no documents to show that he is present in the United States legally. Because his household income is \$0.00, MassHealth determined that he is eligible for MassHealth Limited, given his immigration status.

The appellant reported that he is aware that his passport is expired. He was unable to provide any information or documentation regarding his immigration status.

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. Testimony, Exhibit 4.
2. The appellant applied for MassHealth benefits in July of 2023, at which point he was placed on MassHealth Family Assistance pending verification of his immigration status. Testimony.
3. The appellant submitted no immigration verifications beyond an expired foreign passport, and thus on November 21, 2023, MassHealth generated a notice informing the appellant that his benefits would be downgraded to MassHealth Limited. Testimony, Exhibit 1.
4. The appellant submitted a timely notice of appeal on December 1, 2023, and Aid Pending was applied. Exhibit 2.
5. The appellant has not provided any documentation to demonstrate that he is present in the United States legally. Testimony.
6. The appellant is financially eligible for MassHealth Limited. Testimony, Exhibit 1.

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

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 Lawful 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 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 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 he 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. Further, there is no evidence that meets the pre-1996 entry exception of 130 CMR 504.003(A)(1)(b). Finally, the appellant reported that he is unable to provide any documentation to demonstrate that he is present in the United States legally. He provided no argument, nor was I able to find regulatory support, that his immigration status qualifies him as anything but an Other Noncitizen.

Thus, under the regulations, the appellant is considered as such and can only qualify for MassHealth coverage pursuant to 130 CMR 504.006(D). As he is not pregnant, nor is he a child under the age of 19, he is only categorically eligible for MassHealth Limited benefits. Because he meets the income requirement, MassHealth rightly determined that the appellant is eligible for MassHealth Limited under the regulations. The appeal is denied. The appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765).

Order for MassHealth

None, other than to remove Aid Pending.

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