

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part/ Denied in part	<b>Appeal Number:</b>	2403434
<b>Decision Date:</b>	05/03/2024	<b>Hearing Date:</b>	04/11/2024
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Mayra Vazquez, Tewksbury MEC

**Interpreter:**

ITI Language Line



*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>	Dismissed in part/ Denied in part	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	05/03/2024	<b>Hearing Date:</b>	04/11/2024
<b>MassHealth's Rep.:</b>	Mayra Vazquez	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	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

Through a notice dated January 3, 2024, MassHealth informed Appellant that she is eligible for MassHealth Limited with Health Safety Net effective October 13, 2023 (130 CMR 130 CMR 505.001, 505.002, 505.005 and Exhibit 1). Appellant filed this appeal in a timely manner on March 4, 2024 (130 CMR 610.015(B) and Exhibit 2). Notice of eligibility for MassHealth benefits is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth informed Appellant that she is eligible for MassHealth Limited with Health Safety Net.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 504.003, 505.001, 505.002, 505.006 in determining that Appellant is eligible for MassHealth Limited.

## Summary of Evidence

On January 3, 2024, MassHealth issued notice informing Appellant that she is eligible for MassHealth Limited with Health Safety Net effective October 13, 2023 (Exhibit 1). MassHealth testified that Appellant is also eligible to enroll in a Health Connector Care Plan Type 1. MassHealth testified that Appellant lives in a household of 5 including her spouse and 3 children each of whom is receiving MassHealth Standard coverage through the Department of Transitional Assistance. MassHealth testified that the January 3, 2024 notice states that additional information is needed to determine Appellant's eligibility including proof of income and residency for Appellant and her spouse, and immigration verification for her spouse and one of their children. MassHealth testified that Appellant was determined eligible for MassHealth Limited with Health Safety Net due to her immigration status which is based on a temporary protected status and employment authorization. Appellant has not been found disabled and did not report a pregnancy. Appellant's earned household income is \$729.68 biweekly which equates to 44.40% of the federal poverty level for a household of 5. However, due to her immigration status, Appellant is eligible for Limited coverage only. Appellant was encouraged to contact the Department of Transitional Assistance (DTA).

Appellant testified that her household is currently receiving TAFDC and SNAP benefits through the Department of Transitional Assistance, and that her spouse was recently employed. She testified that she entered the United States on October 5, 2021 and verified that she has a temporary protected status and employment authorization. Appellant added that she would contact DTA.

## Findings of Fact

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

1. Appellant's household is currently receiving TAFDC and SNAP benefits through the Department of Transitional Assistance.
2. Appellant lives in a household of 5 including her spouse and 3 children all of whom are receiving MassHealth Standard coverage through the Department of Transitional Assistance.
3. Appellant entered the United States on October 5, 2021 with a temporary protected status and employment authorization.
4. Appellant has not been found disabled and did not report a pregnancy.
5. 133% of the federal poverty level for a household of 5 is \$4,055.

6. Appellant's household income equates to 44.40% of the federal poverty level for a household of 5.

## Analysis and Conclusions of Law

MassHealth eligibility is based on categorical and financial criteria, in addition to an applicant's immigration status. Eligibility for either MassHealth Standard, CarePlus, or CommonHealth, generally requires that an applicant is "a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens ...* ." (130 CMR 505.002(E)(1)(c); 505.004(B)(4), (C)(4); 505.008(A)(2).) Appellant entered the United States on October 5, 2021 under a temporary protected status and employment authorization. Thus, her immigration status is described as a Nonqualified Individual Lawfully Present (130 CMR 504.003(A)(3)).<sup>1</sup>

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<sup>1</sup> 130 CMR 504.003(A)(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:

- (a) are in a valid nonimmigrant status as otherwise defined in 8 U.S.C. 1101(a)(15) or otherwise under immigration laws (as defined in 8 U.S.C. 1101(a)(17));
- (b) are paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than one year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
- (c) belong to one of the following classes:
  - 1. granted Temporary Resident Status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
  - 2. granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a, and individuals with pending applications for TPS who have been granted employment authorization;
  - 3. granted employment authorization under 8 CFR 274a.12(c);
  - 4. Family Unity beneficiaries in accordance with section 301 of Public Law 101-649;
  - 5. under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
  - 6. granted Deferred Action status, except for applicants or individuals granted status under Department of Homeland Security (DHS) Deferred Action for Childhood Arrivals Process (DACA);
  - 7. granted an administrative stay of removal under 8 CFR part 241; or
  - 8. beneficiaries of approved visa petitions who have pending applications for adjustment of status;
- (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;
- (e) have been granted withholding of removal under the Convention Against Torture Treaty; or
- (f) is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J).

Pursuant to 130 CMR 504.006(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 age 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)*.

Appellant and her household are receiving TAFDC and SNAP benefits through the Department of Transitional Assistance (DTA), and her spouse and 3 children are receiving MassHealth Standard coverage through DTA. Appeals filed by Appellant for other household members are DISMISSED because other household members are receiving MassHealth Standard coverage through DTA which resolves the issues to their favor (130 CMR 610.051, 610.035(A)(8) and Exhibits 1A, 2). Therefore, only Appellant's MassHealth eligibility is reviewed in this hearing decision; however, her eligibility for MassHealth coverage through DTA is not evaluated here. Appellant is not disabled and did not report a pregnancy. Based on MAGI income that equates to 44.40% of the federal poverty level, Appellant meets criteria for MassHealth Limited described at 130 CMR 505.006(B)(1)(c)(1) as an adult 21 through 64 years of age who is a parent, caretaker, or adult with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL, \$4,055. The MassHealth determination is correct, and the appeal is DENIED.

**Appellant can direct any questions about her eligibility for MassHealth benefits through the Department of Transitional Assistance to 877-382-2363, the Health Safety Net to 877-910-2100, and Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765).**

## 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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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: Appeals Coordinator: Sylvia Tiar, Tewksbury MassHealth Enrollment Center