

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2405258
Decision Date:	06/14/2024	Hearing Date:	05/08/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Yadira Ramos – Springfield HCR

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:	Community; Under-65; Immigration; Pregnancy
Decision Date:	06/14/2024	Hearing Date:	05/08/2024
MassHealth's Rep.:	Yadira Ramos	Appellant's Rep.:	Pro se
Hearing Location:	Telephonic	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 March 8, 2024, MassHealth downgraded the appellant's coverage from the MassHealth Standard benefit to the Limited benefit. (Exhibit 1; 130 CMR 505.000.) The appellant filed this appeal in a timely manner on April 2, 2024. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth downgraded the appellant's coverage following her annual renewal because she was no longer pregnant.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(D) and 504.003, in determining that the appellant was no longer pregnant and not a qualified noncitizen or citizen.

Summary of Evidence

On or around January 24, 2024, MassHealth informed the appellant that she needed to complete a renewal to continue her eligibility. On or around March 8, 2024, the appellant completed her renewal and MassHealth downgraded her coverage to MassHealth Limited. MassHealth's representative testified that the appellant's eligibility was based upon her undocumented immigration status. The appellant had been approved for MassHealth Standard in November 2020, based upon her being pregnant. Typically, MassHealth would have terminated her Standard coverage following the birth of the child, but her Standard coverage continued because of coverage protections in place due to the Federal Public Health Emergency ("FPHE") arising from Covid-19. The FPHE protections were ended April 1, 2024, and MassHealth has been redetermining eligibility on a rolling basis since.

The appellant is upset because she was told that, when she called to complete her renewal, her coverage would not change, and that she would continue to have the same coverage as her child. Relying on this, she made a doctor's appointment to examine her back, and she is now being billed for that visit. The appellant alleged that she did not receive the March 8, 2024 notice, and that even if she had she would not have been able to read it because it was in English. MassHealth's representative confirmed the appellant's mailing address and confirmed that the notice had been mailed out in Portuguese, the appellant's preferred language.

The appellant understood that she was not eligible for MassHealth Standard based on her immigration status. However, she felt it was unfair to be billed for the medical services and asked for assistance with paying for them. The appellant did not identify any pregnancies within the last year.

Findings of Fact

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

- 1) The appellant is an undocumented immigrant, who was pregnant in 2020. (Testimony by the appellant; Exhibit 4.)
- 2) On or around January 24, 2024, MassHealth informed the appellant that she needed to complete a renewal to continue her eligibility. On or around March 8, 2024, the appellant completed her renewal and MassHealth downgraded her coverage to MassHealth Limited. (Testimony by MassHealth's representative; Exhibit 1.)
- 3) The appellant completed her renewal over the phone and was told that her coverage was going to stay the same. (Testimony by the appellant.)
- 4) The appellant was not pregnant within the last year. (Testimony by the appellant.)

Analysis and Conclusions of Law

MassHealth offers a variety of coverage types based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain financial threshold. Most benefit types also require the applicant to have specific immigration status. Generally, MassHealth Standard requires an applicant be "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).) "Former Foster-care Individuals" and "People who are Pregnant" are the only two MassHealth Standard subcategories available to individuals who are not either citizens or Qualified Noncitizens. (See 130 CMR 505.002(D)(1)(b); 505.002(H)(1)(b), (H)(2).)

(1) Qualified Noncitizens. There are two groups of qualified noncitizens:

(a) those who are qualified, regardless of when they entered the U.S. or how long they had a qualified status. Such individuals are

1. persons granted asylum under § 208 of the INA;
2. Refugees admitted under § 207 of the INA;
3. persons whose deportation has been withheld under § 243(h) or 241(b)(3) of the INA, as provided by § 5562 of the federal Balanced Budget Act of 1997;
4. veterans, their spouses, and their children:
...
5. Conditional Entrants under § 203(a)(7) of the INA in effect before April 1, 1980;
6. persons who entered as Cuban/Haitian entrants under § 501(e) of the Refugee Education Assistance Act of 1980;
7. Native Americans with at least 50% American Indian blood who were born in Canada pursuant to § 289 of the INA or other tribal members born in territories outside of the U.S. pursuant to 25 U.S.C. 450b(e), under Medicaid;
8. Amerasians as described in § 402(a)(2)(A)(i)(V) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA);
9. Victims of severe forms of trafficking; and spouse, child, sibling or parent of the victim, in accordance with the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106-386);

10. Iraqi Special Immigrants granted special immigrant status under § 101(a)(27) of the Immigration and Nationality Act, pursuant to § 1244 of Public Law 110-181 or § 525 of Public Law 110-161;

11. Afghan Special Immigrants granted special immigrant status under § 101(a)(27) of the Immigration and Nationality Act, pursuant to § 525 of Public Law 110-161; or

12. Migrants from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who legally reside in the United States pursuant to a series of treaties with the United States known as the Compacts of Free Association (COFA), under Medicaid.

...

(b) noncitizens who are qualified based on having a qualified status identified in 130 CMR 504.003(A)(1)(b)1. **and** who have **satisfied one of the conditions listed in 130 CMR 504.003(A)(1)(b)2**. Such individuals

1. have **one or more of the following statuses**:

a. admitted for **legal permanent residence** (LPR) under the Immigration and Nationality Act (INA); or

b. granted parole for at least one year under section 212(d)(5) of the INA; or

c. are the battered spouse, battered child, or child of battered parent or parent of battered child who meets the criteria of section 431(c) of PRWORA; and also

2. **satisfy at least one** of the three following conditions:

a. **they have had a status** in 130 CMR 504.003(A)(1)(b)1. **for five or more years** (a battered noncitizen attains this status when the petition is accepted as establishing a prima facie case);

b. they entered the U.S. prior to August 22, 1996, ...; or

c. they also have or had a status listed in 130 CMR 504.003(A)(1)(a).

(130 CMR 504.003(A)(1) (emphasis added).)

The appellant did not identify an immigration status that would make her a Qualified Noncitizen. Her coverage for MassHealth Standard was premised upon her being pregnant, and she is no

longer pregnant.¹ Therefore, MassHealth made no error in downgrading the appellant's coverage from MassHealth Standard to MassHealth Limited. Fair hearings may only review the actions of MassHealth that are documented on appealed MassHealth notices, and there is no authority to offer any relief based upon the appellant's allegations that she was informed she would continue to receive MassHealth Standard coverage. (See 130 CMR 610.032.)

Therefore, this 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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

¹ MassHealth does allow continued postpartum MassHealth Standard coverage for up to a year following the birth of a child regardless of the parent's immigration status. (See EOM 22-07 (April 2022).) The appellant did not assert that she had a pregnancy within the past year.