

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2406698
Decision Date:	07/16/2024	Hearing Date:	06/06/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Shana Sullivan, 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:	07/16/2024	Hearing Date:	06/06/2024
MassHealth's Rep.:	Shana Sullivan	Appellant's Rep.:	Pro se
Hearing Location:	Remote	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 April 5, 2024, MassHealth approved the appellant's benefits for MassHealth Limited, downgrading her from MassHealth Standard. *See* 130 CMR 504.003 and Exhibit 1. The appellant filed this appeal in a timely manner on April 26, 2024. *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.

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits from MassHealth Standard to MassHealth Limited.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant is not eligible for MassHealth Standard in placing her on MassHealth Limited.

Summary of Evidence

The appellant is an adult under the age of 65 who resides in a household of one and has no income. She was assisted at hearing by a Cape Verdean Creole speaking interpreter. MassHealth was represented at hearing by a worker from the Quincy MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and evidence provided at hearing:

Prior to the notice at issue, the appellant was active on MassHealth Standard benefits. She was in a severe accident in [REDACTED], which resulted in her hospitalization. The appellant still has significant medical needs because of the accident. When she applied for MassHealth benefits, her application incorrectly stated that she is a United States citizen.¹ Because the appellant has no income, she was therefore placed on MassHealth Standard, giving her access to certain benefits such as the Personal Care Attendant program.

In April 2024, the appellant updated her immigration status with MassHealth, providing a copy of her green card. It indicates that the appellant has been a legal permanent resident of the United States since October of 2023. At hearing, the appellant agreed with this, indicated that she did not receive her card until November, and confirmed that she is not a U.S. citizen.

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 who is currently active on MassHealth Limited. Exhibit 1, Exhibit 4, Testimony.
2. The appellant suffered a severe accident in [REDACTED] for which she was hospitalized and still has significant medical needs. Her application for MassHealth incorrectly reflected that she was a United States citizen. As a result, she was placed on MassHealth Standard benefits. Exhibit 4, Testimony. This allowed her to utilize certain benefits such as the Personal Care Attendant program. Testimony.
3. In April 2024, the appellant updated her immigration status, and MassHealth verified that the appellant has been a legal permanent resident of the United States since October of 2023. Testimony.
4. As a result of the update to the appellant's immigration status, her MassHealth Standard

¹ There is no evidence that this error was made with any intent to deceive MassHealth or was anything but an honest mistake.

benefits were downgraded to MassHealth Limited on April 5, 2024. Exhibit 1, Testimony.

5. The appellant filed a timely request for fair hearing on April 26, 2024. Exhibit 2.

4. The appellant is financially eligible for MassHealth Standard, Family Assistance, and Limited. Exhibit 1, Testimony.

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)). 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)). As the appellant argues that she should be eligible for MassHealth Standard, at issue is whether she is a qualified noncitizen or protected noncitizen that could receive MassHealth under any coverage type, or a qualified noncitizen barred or nonqualified individual lawfully present. *See generally* 130 CMR 504.006.

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 504.00(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). An individual who is a permanent resident but has not possessed the status for at least five years is considered a Qualified Noncitizen Barred under 130 CMR 504.003(A)(2).

Citizens, qualified noncitizens, and protected noncitizens “may receive MassHealth under any coverage types for which they are [financially] eligible.” 130 CMR 504.006(A). Qualified Noncitizens Barred may receive the following benefits:

(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).

130 CMR 504.006(B) (emphasis added).

Although the appellant is a legal permanent resident of the United States, she and MassHealth both agree that she has only possessed that status since October of 2023, which is less than the five years required for her to be considered a qualified noncitizen. As such, she is a qualified noncitizen barred who is not pregnant and is over the age of 19, and, without a confirmed disability, was rightly placed on MassHealth Limited. The MassHealth regulations do not include any provisions that would allow a member to keep benefits for which they are unqualified even in the event of an emergency or circumstances such as the appellant's.² I find that the appellant has not met her burden of proof that MassHealth erred in issuing the April 5, 2024, notice.³ Based on the foregoing, the appeal is hereby 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

² The appellant testified at hearing that a judge ordered her insurance company to continue to pay her health expenses. Without evidence of such an order, I am unable to credit this testimony.

³ If the appellant submits a disability supplement and MassHealth confirms her disability, she may be upgraded to MassHealth Family Assistance. Unfortunately, she cannot receive MassHealth Standard or CommonHealth until she has been a legal permanent resident for five or more years. See 130 CMR 504.003(A)(1)(b)(2)(a).

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

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171