

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2410665
Decision Date:	09/06/2024	Hearing Date:	08/22/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:



Appearance for MassHealth:

Brittany Holliday, Tewksbury 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:	09/06/2024	Hearing Date:	08/22/2024
MassHealth's Rep.:	Brittany Holiday	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 June 18, 2024, MassHealth approved the appellant for MassHealth Family Assistance benefits, downgrading him from MassHealth Standard. *See* 130 CMR 504.003 and Exhibit 1. The appellant filed this appeal in a timely manner on July 9, 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 Family Assistance.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant is not eligible for MassHealth Standard in placing him on MassHealth Family Assistance.

Summary of Evidence

The appellant is an adult under the age of 65 who resides in a household of one and has a gross monthly income of less than 133% of the federal poverty level. He was assisted at hearing by a Spanish speaking interpreter. MassHealth was represented at hearing by a worker from the Tewksbury 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 with the Medicare Savings Plan (MSP). He was deemed eligible as a disabled person since at least January of 2021, and was mistakenly listed as a United States citizen in the MassHealth computer system. MassHealth realized its error in December of 2022, but the appellant's MassHealth Standard and MSP benefits were protected due to the ongoing COVID-19 federal public health emergency. MassHealth verified that the appellant has been a legal permanent resident of the United States since [REDACTED], with which the appellant agreed. On June 6, 2024, MassHealth removed the protection on the appellant's account and downgraded his benefits to MassHealth Family Assistance due to his income, disability, and immigration status.

The appellant expressed concern that the downgrade of his benefits would result in his Medicare premium being deducted from his Social Security allotment, which he stated is already not enough to cover his bills. He stated that he did not know how he would pay for certain medications.

Findings of Fact

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

1. The appellant is a disabled adult under the age of 65 who is currently active on MassHealth Family Assistance. Exhibit 1, Exhibit 4, Testimony.
2. The appellant was previously approved for MassHealth Standard due to an error in the MassHealth computer system mistakenly listing the appellant as a United States citizen in 2021. His benefits were then protected during the ongoing COVID-19 federal public health emergency, despite MassHealth having realized its error in December of 2022. Testimony, Exhibit 4.
3. On or around June 6, 2024, MassHealth updated the appellant's account and downgraded his benefits from MassHealth Standard to MassHealth Family Assistance. Testimony.
4. The appellant has been a legal permanent resident of the United States since [REDACTED] [REDACTED] Testimony.
5. The appellant filed a timely request for fair hearing on July 9, 2024. Exhibit 2.

4. The appellant is financially eligible for MassHealth Standard, Family Assistance, and Limited benefits. 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 he should be eligible for MassHealth Standard, at issue is whether he 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, he and MassHealth both agree that he has only possessed that status since September of 2020, which is less than the five years required for him to be considered a qualified noncitizen. As such, he is a qualified noncitizen barred who is not pregnant and is over the age of 19, meaning that he does not qualify for MassHealth Standard. As an individual with a confirmed disability, the appellant was rightly placed on MassHealth Family Assistance. Therefore, I find no error by MassHealth in issuing the June 18, 2024, notice.

For the foregoing reasons, 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 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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center