

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2414712
Decision Date:	12/3/2024	Hearing Date:	10/24/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Nancy Derisma, Charlestown 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:	12/3/2024	Hearing Date:	10/24/2024
MassHealth's Rep.:	Nancy Derisma, Charlestown MassHealth Enrollment Center	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 September 24, 2024, MassHealth approved the appellant for MassHealth Limited benefits. *See* 130 CMR 504.006(D)(2) and Exhibit 1. The appellant filed this appeal in a timely manner on September 24, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging an 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 three with her two minor children. She was assisted at the hearing by a Spanish-speaking interpreter secured by the Board of Hearings. The MassHealth representative is a worker from the Charlestown MassHealth Enrollment Center. All parties appeared on telephone. The following is a summary of the testimony given and the evidence provided at the hearing:

On September 24, 2024, MassHealth issued a notice approving the appellant for MassHealth Limited benefits. MassHealth verified that the appellant is present in the United States due to an employment authorization, which qualifies her as a Nonqualified Individual Lawfully Present. The appellant is currently enrolled in a plan through the Health Connector, and her total household income is \$0.00.

The appellant testified that she applied for asylum, but her application was denied. She reported that she is or was involved in a domestic violence situation and has applied for a U-Visa, for which she is still awaiting a determination. The appellant was unable to provide any documentation to show that she is in the waiting process for a U-Visa, such as the application or any pending court documents.

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 resides in a household of three with her two minor children. Exhibit 1, Exhibit 4.
2. On September 24, 2024, MassHealth determined that the appellant is eligible for MassHealth Limited benefits. Exhibit 1.
3. The appellant filed a timely appeal on September 24, 2024. Exhibit 2.
4. As of the date of the hearing, MassHealth verified that the appellant is present in the United States pursuant to an employment authorization. Testimony.
5. The appellant is financially eligible for MassHealth Standard, Family Assistance, and Limited. Testimony, Exhibit 1.
6. The appellant provided no evidence of a definitive breast cancer diagnosis, nor that she has been granted or has applied for a U-Visa as a victim of domestic violence. 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)). As there is no evidence that the appellant has ever received MassHealth CommonHealth, she cannot be considered a Protected Noncitizen pursuant to 504.003(B); furthermore, there is no evidence that her current status qualifies her as a Nonqualified Persons Residing under Color of Law based on the myriad of options contained within 504.003(C). For the reasons stated herein, MassHealth records indicate that the appellant is a Lawfully Present Immigrant, and therefore at issue for this appeal is whether she falls into a subcategory of Lawfully Present Immigrant that would qualify her for coverage beyond MassHealth Limited.

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 Nonqualified Individuals Lawfully Present (504.003(A)(3)). An individual who has been “granted employment authorization under 8 CFR 274a. 12(c)” is considered a Nonqualified Individual Lawfully Present for purposes of MassHealth Eligibility. 130 CMR 504.003(A)(3)(c)(3). Therefore, based on MassHealth records, the appellant meets, at very least, the requirements to be considered a Nonqualified Individual Lawfully Present.

It is relevant and necessary to determine under which category of Lawfully Present Immigrant the appellant falls, 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, Nonqualified Individuals Lawfully Present may only receive the following coverage pursuant to 130 CMR 504.006(B):

- (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).

Therefore, it is essential to determine which category applies to the appellant to decide whether she 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 or are a victim of domestic violence 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 (in fact, the appellant testified that she was denied asylum), 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). Although the appellant testified that she is currently awaiting a U-Visa, she is unable to provide any documents to support this claim. The appellant provided no argument, nor was I able to find regulatory support, that her immigration status qualifies her as anything but a Nonqualified Individual Lawfully Present based on MassHealth's verification of her employment authorization status.

Thus, under the regulations, the appellant is considered as such and can only qualify for MassHealth coverage pursuant to 130 CMR 504.006(B). There is no evidence that the appellant is pregnant or disabled, and the evidence shows that she is over the age of 19, so she may not qualify for MassHealth Standard, CommonHealth, Family Assistance, nor the CMSP. *Id.* Although the appellant testified that she may have breast cancer, she provided no definitive diagnoses, and even that would not affect her eligible coverage type. As such, the appellant has not met her burden of proof to demonstrate that she qualifies for coverage beyond MassHealth Limited. Because she meets the income requirement, MassHealth rightly determined that the appellant is eligible for MassHealth Limited under the regulations. I therefore find no error with the issuance of the September 24, 2024, notice approving her for that coverage.

For the foregoing reasons, the appeal is denied.

The appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765). If anything changes with the appellant's health or immigration status, she may notify MassHealth to determine whether her eligibility is affected.

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: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129