

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2416387
<b>Decision Date:</b>	1/16/2025	<b>Hearing Date:</b>	01/16/2025
<b>Hearing Officer:</b>	Amy B. Kullar, Esq.		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Raisa Guzman, Charlestown MassHealth  
Enrollment Center



*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>	Denied	<b>Issue:</b>	Under 65; Eligibility; Immigration
<b>Decision Date:</b>	1/16/2025	<b>Hearing Date:</b>	01/16/2025
<b>MassHealth's Rep.:</b>	Raisa Guzman	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center - Room 1 (Telephone)	<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 October 10, 2024, MassHealth upgraded the appellant from Health Safety Net to MassHealth Limited coverage. Exhibit 1. The appellant filed this appeal in a timely manner on November 14, 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(5).

### Action Taken by MassHealth

MassHealth determined that the appellant was eligible 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 one. He was assisted by a Brazilian Portuguese speaking interpreter secured by the Board of Hearings. The MassHealth representative is a worker from the Charlestown MassHealth Enrollment Center. All parties appeared on the telephone. The following is a summary of the testimony given and the evidence provided at hearing:

In September 2024, the MassHealth system determined that the appellant was eligible for MassHealth Limited benefits in addition to the Health Safety Net benefit he had been receiving since March 2023. The appellant's household has a federal poverty level (FPL) of 124.47%. Exhibit 1. A notice was generated on October 10, 2024, informing the appellant of his upgrade in coverage to MassHealth Limited. The MassHealth representative testified that "MassHealth Limited is the only coverage he qualifies for due to immigration status, unless he has a recent change in immigration status." Testimony.

The appellant did not dispute the calculation of his FPL and acknowledged that there is no change in his immigration status to report at this time, but that he is appealing MassHealth's decision because he was previously able to see a cardiologist covered by his MassHealth benefits. He testified that he is no longer able to see his cardiologist since the upgrade in coverage. The MassHealth representative responded that his inability to see his cardiologist is because his provider no longer accepts the type of MassHealth benefits that the appellant has, but the coverage he now has, MassHealth Limited, is more coverage than the appellant was receiving from MassHealth in the last few years. The appellant needs to find a cardiologist that accepts his current MassHealth coverage.

## 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 residing in a household of one with an FPL of 124.47%. Testimony, Exhibits 1 and 4.
2. In September 2024, MassHealth determined that the appellant is eligible for MassHealth Limited benefits. Testimony.
3. On October 10, 2024, MassHealth generated a notice informing the appellant that his benefits would be upgraded to MassHealth Limited. Testimony, Exhibit 1.
4. The appellant submitted a timely notice of appeal on October 23, 2024. Exhibit 2.

5. The appellant has not provided any documentation to demonstrate that he is present in the United States legally. Testimony.
6. The appellant is financially eligible for MassHealth Limited. Testimony, Exhibit 1.

## **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, he cannot be considered a Protected Noncitizen pursuant to 504.003(B); furthermore, there is no evidence that his current status qualifies him as a Nonqualified Persons Residing under Color of Law based on the myriads of options contained within 504.003(C). Thus, at issue for this appeal is whether he can be considered a Lawful Present Immigrant for purposes of MassHealth eligibility, or whether he is presently an Other Noncitizen under the regulations.

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)). For the sake of clarity, there is no evidence in the record to suggest that the appellant is a Qualified Noncitizen Barred or a Qualified Individual Lawfully Present. Therefore, the question at issue is whether the appellant can be considered a Qualified Noncitizen or an Other Noncitizen.

It is relevant and necessary to determine whether this criterion applies to the appellant 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, Other Noncitizens may only receive the following coverage pursuant to 130 CMR 504.006(D):

- (1) MassHealth Standard, if they are pregnant and meet the categorical requirements and financial standards as described in 130 CMR 505.002: MassHealth Standard;
- (2) MassHealth Limited, if they meet the categorical requirements and financial standards as described in 130 CMR 505.006: MassHealth Limited; and
- (3) 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 he 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 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, 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). Finally, the appellant reported that he is unable to provide any documentation to demonstrate that he is present in the United States legally. He provided no argument, nor was I able to find regulatory support, that his immigration status qualifies him as anything but an Other Noncitizen.

Thus, under the regulations, the appellant is considered an Other Noncitizen and can only qualify for MassHealth coverage pursuant to 130 CMR 504.006(D). As he is not pregnant, nor is he a child under the age of ■ he is only categorically eligible for MassHealth Limited benefits. Because he meets the income requirement, MassHealth rightly determined that the appellant is eligible for MassHealth Limited under the regulations.

The 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.

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Amy B. Kullar, Esq.  
Hearing Officer  
Board of Hearings

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129