

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied in part; Approved in part	Appeal Number:	2417069
Decision Date:	01/28/2025	Hearing Date:	12/13/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Leshawn Kelley (Quincy MEC) *via telephone*



*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 in part; Approved in part	Issue:	Community Eligibility – Under 65 – Immigration Status
Decision Date:	01/28/2025	Hearing Date:	12/13/2024
MassHealth’s Rep.:	Leshaun Kelley	Appellant’s Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South	Aid Pending:	N/A

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 27, 2024, MassHealth informed the appellant that she was eligible for MassHealth Limited, but did not qualify for more comprehensive MassHealth coverage because she did not meet citizenship and immigration requirements or have a special circumstance that would make her eligible for more comprehensive MassHealth coverage. (See 130 CMR 504.000; 505.002; 505.004; and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on November 6, 2024. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant was eligible for MassHealth Limited but not for more comprehensive MassHealth coverage because she did not meet citizenship and immigration requirements or have a special circumstance that would make her eligible for more comprehensive MassHealth coverage.

Issue

The primary appeal issue is whether MassHealth was correct, pursuant to 130 CMR 504.003,

504.006 505.002, 505.005, and 505.006 in determining that the appellant was not eligible for more comprehensive MassHealth coverage. A secondary appeal issue concerns whether MassHealth correctly determined the end date of the appellant's Family Assistance coverage.

Summary of Evidence

A benefits eligibility representative from the Quincy MassHealth Enrollment Center (MEC) spoke on behalf of MassHealth. The appellant spoke on his own behalf. All individuals attended the hearing telephonically.

The MassHealth representative testified first to the following. The appellant is under the age of 65 years old and is a [REDACTED]. (Testimony; Ex. 3). The appellant does not report that she is disabled. (Testimony; Ex. 3). The appellant lives in a household of two persons, and the household does not currently receive income. (Testimony; Ex. 1). From July 13, 2018 through March 21, 2024, the appellant did not report having an immigration status and therefore was determined eligible for MassHealth Limited. (Testimony; Ex. 3).

In March 2024, the appellant reported a change to her immigration status indicating that she may actually be a [REDACTED] (Testimony). Once the appellant reported this change, the appellant's coverage was upgraded to Family Assistance beginning on March 11, 2024. (Testimony; Ex. 3). MassHealth instituted this upgrade to the appellant's coverage pending submission of further verification concerning her immigration status. (Testimony; Ex. 6). The appellant was given a certain amount of time to provide this verification. (Testimony). MassHealth did not receive further documentation from the appellant concerning whether or not she was a PRUCOL. (Testimony).

For that reason, on September 27, 2024, MassHealth notified the appellant that it was downgrading the appellant's coverage to MassHealth Limited beginning June 15, 2024. (Testimony; Ex. 1; Ex. 3). The appellant's Family Assistance ended on July 9, 2024. (Testimony; Ex. 3). The MassHealth representative clarified that the system had made this change automatically once the reasonable opportunity to prove her immigration status passed. (Testimony). The MassHealth representative stated that if the appellant could provide additional documents, such as a temporary visa or I-797 form, her status could be reassessed and she could be eligible for more comprehensive MassHealth coverage. (Testimony).

The appellant explained that she had been offered an upgrade to better coverage earlier in the year by a MassHealth representative, who had suggested that she submit her passport. (Testimony). The appellant clarified that she had only provided her passport and had been thorough in her communication and did not attempt to deceive anyone. (Testimony). The appellant stated that, despite her efforts to submit the verifications, MassHealth downgraded her coverage. (Testimony). The appellant believed that this was a mistake and it has negatively impacted her health. (Testimony). The appellant stated that her medical conditions cause her significant physical pain. (Testimony). The downgrade in coverage has resulted in her having to

cancel appointments. (Testimony). Additionally, it has caused her medical providers to send her medical bills. (Testimony). This has caused the appellant psychological distress. (Testimony). The appellant stated that she had acted in good faith to provide MassHealth with the information it required, but felt she had been left to handle the consequences alone. (Testimony). The appellant requested that the responsibility be shared, particularly considering her health struggles and lack of income. (Testimony).

Findings of Fact

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

1. The appellant is under the age of 65 years old and is a non-citizen. (Testimony; Ex. 3).
2. The appellant is not disabled. (Ex. 3).
3. The appellant lives in a household of two and reports no income. (Testimony; Ex. 1).
4. From July 13, 2018 through March 21, 2024, the appellant did not report having an immigration status and therefore was only eligible for MassHealth Limited. (Testimony; Ex. 3).
5. In March 2024, the appellant reported a change to her immigration status indicating that she may be a PRUCOL. (Testimony).
6. Once the appellant reported this change, the appellant's coverage was upgraded to Family Assistance beginning on March 11, 2024. (Testimony; Ex. 3).
7. MassHealth instituted this upgrade to the appellant's coverage pending submission of further verification concerning her immigration status. (Testimony; Ex. 6).
8. The appellant was given a certain amount of time to provide this verification. (Testimony).
9. MassHealth did not receive documentation from the appellant supporting her PRUCOL status. (Testimony).
10. For that reason, on September 27, 2024, MassHealth notified the appellant that it was downgrading the appellant's coverage to MassHealth Limited beginning June 15, 2024. (Testimony; Ex. 1; Ex. 3).
11. The appellant's Family Assistance ended on July 9, 2024. (Testimony; Ex. 3).

Analysis and Conclusions of Law

The MassHealth regulations at 130 CMR 504.003(C) state the following concerning what

persons are Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)

Certain noncitizens who are not [Qualified Noncitizens or Protected Non-Citizens] may be permanently living in the United States under color of law. The applicable coverage types for nonqualified PRUCOLs are listed in [130 CMR 504.006](#). If not otherwise described...the following are considered nonqualified PRUCOLs:

- (1) noncitizens living in the United States in accordance with an Indefinite Stay of Deportation;
- (2) noncitizens living in the United States in accordance with an Indefinite Voluntary Departure;
- (3) noncitizens and their families who are covered by an approved immediate relative petition, who are entitled to Voluntary Departure, and whose departure the U.S. Department of Homeland Security (DHS) does not contemplate enforcing;
- (4) noncitizens granted Voluntary Departure by the DHS or an Immigration Judge, and whose deportation the DHS does not contemplate enforcing;
- (5) noncitizens living under Orders of Supervision who do not have employment authorization under [8 CFR 274a.12\(c\)](#);
- (6) noncitizens who have entered and continuously lived in the United States since before January 1, 1972;
- (7) noncitizens granted Suspension of Deportation, and whose departure the DHS does not contemplate enforcing;
- (8) noncitizens with pending applications for asylum under [8 U.S.C. 1158](#), or for Withholding of Removal under [8 U.S.C. 1231](#), or under the Convention Against Torture Treaty who have not been granted employment authorization, or are under the age of 14 and have not had an application pending for at least 180 days;
- (9) noncitizens granted Deferred Action for Childhood Arrivals status or who have a pending application for this status;
- (10) noncitizens who have filed an application, petition, or request to obtain a lawfully present status that has been accepted as properly filed, but who have not yet obtained employment authorization and whose departure DHS does not contemplate enforcing; or
- (11) any noncitizen living in the United States with the knowledge and consent of the DHS, and whose departure the DHS does not contemplate enforcing. (These include persons granted Extended Voluntary Departure due to conditions in the noncitizen's home country based on a determination by the U.S. Secretary of State.)

Under MassHealth regulations at 504.006(C), Nonqualified PRUCOLs may receive the following types of MassHealth coverage:

- (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 CommonHealth, if they are younger than 19 years old or a young

adult 19 or 20 years of age 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, young adults 19 and 20 years of age, **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 are receiving EAEDC;

(4) MassHealth Limited, if they are children younger than 19 years old, young adults 19 or 20 years of age, adults 21 through 64 years of age and meet the categorical requirements and financial standards as described in 130 CMR 505.006: MassHealth Limited;

(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). (Emphasis added).

Individuals who are nonqualified PRUCOLs are eligible for MassHealth Family Assistance coverage if they are 21 through 64 years old and; ineligible for MassHealth Standard or MassHealth CommonHealth; uninsured; do not have access to affordable Minimum Essential Coverage as defined in § 1401 of the Patient Protection and Affordable Care Act; and have modified adjusted gross income of the MassHealth MAGI household at or below 300% of the FPL. (130 CMR 505.005(D)(1)).

If an individual is not a citizen, a qualified non-citizen, protected non-citizen, or a Nonqualified PRUCOL, they are considered an "Other Non-Citizen". (130 CMR 504.003(D)). "Other Non-Citizens" under 130 CMR 504.006(D) may receive the following coverage:

(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 \(CMSP\)](#). (Emphasis added).

MassHealth Limited is available to "Other Non-Citizens" who are children younger than one year old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 200% of the federal poverty level (FPL); children one through 18 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL; young adults 19 through 20 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL; adults 21 through 64 years old who are parents, caretakers, or adults with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL; and disabled adults 21 through 64 years old with modified adjusted gross income of the MassHealth

Disabled Adult household that is less than or equal to 133% of the FPL. (130 CMR 505.006(B)(1)(a)).

The appellant has not shown by a preponderance of the evidence that she is eligible for MassHealth Family Assistance. The record does show the appellant is under the age of 65 years old and has household income that is below 300% of the FPL. Although there was no evidence submitted in the hearing stating as much, it may be surmised that the appellant was ineligible for MassHealth Standard or MassHealth CommonHealth; was otherwise uninsured; and did not have access to affordable Minimum Essential Coverage. The only issue on appeal concerned whether the appellant had PRUCOL status. MassHealth gave the appellant a certain amount of time to submit evidence supporting whether she was a PRUCOL and did not receive this documentation. For that reason, the appellant was determined to not be eligible for Family Assistance. Although the appellant credibly testified that she tried submitting the verifications necessary to support her PRUCOL status, she did not submit those verifications into the hearing record and did not request further time after the hearing to do so.

The record does support the conclusion that the appellant is eligible for MassHealth Limited. As of the date of the hearing, the appellant had not submitted any evidence showing that she had an immigration status, much less one that would show that she was eligible for more comprehensive coverage than MassHealth Limited. The record supports that the appellant is eligible for MassHealth Limited.

MassHealth benefits terminate or downgrade no sooner than 14 days from the date of termination or downgrade notice unless the MassHealth member timely files an appeal and requests continued MassHealth benefits pending such appeal or reinstatement of benefit. (130 CMR 502.006(D)). MassHealth will extend coverage to the end of the month only for those individuals whose MassHealth eligibility is terminated and who become eligible for the Premium Tax Credit (PTC). (Id.). If the effective date of the termination is on or before the 15th of the month, MassHealth coverage will end on the last day of that month. (Id.). If the effective date of the termination is after the 15th of the month, MassHealth coverage will end on the last day of the following month. (Id.).

There was no evidence submitted that indicated that the appellant received notice prior to September 27, 2024 informing her that she was no longer eligible for MassHealth Family Assistance. Although this notice appropriately stated that the coverage start date for her downgraded MassHealth Limited coverage should be June 15, 2024, the end date for her Family Assistance should have been September 30, 2024 in accordance with the regulations cited above.

For the above reasons, the appeal is DENIED IN PART with respect to the appellant eligibility for Family Assistance and APPROVED IN PART with respect to the date that her Family Assistance should have ended.

Order for MassHealth

The appellant's Family Assistance coverage should be extended through the end of the day on September 30, 2024. If the appellant received medical services that would have been covered under Family Assistance after July 9, 2024 but prior to September 30, 2024, MassHealth should cover these services.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Scott Bernard
Hearing Officer
Board of Hearings

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