

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2418297
Decision Date:	02/28/2025	Hearing Date:	01/23/2025
Hearing Officer:	Emily Sabo		

Appearance for Appellant:



Appearance for MassHealth:

Aline Teixeira, Tewksbury MEC



*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:	Approved	Issue:	Community Eligibility—under 65; Residency
Decision Date:	02/28/2025	Hearing Date:	01/23/2025
MassHealth's Rep.:	Aline Teixeira	Appellant's Rep.:	██████
Hearing Location:	Tewksbury MassHealth Enrollment Center (Telephone)	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 October 22, 2024, MassHealth notified the Appellant that it was terminating coverage for the Appellant's minor child, effective December 31, 2024, on the grounds that the child is not a resident of Massachusetts. 130 CMR 503.002 and Exhibit 1. The Appellant filed this appeal in a timely manner on November 19, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the Appellant's child's MassHealth benefits, effective December 31, 2024, on the basis that she was not a Massachusetts resident.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 503.002, in determining that the Appellant's child is not a Massachusetts resident.

Summary of Evidence

As part of the Appellant's fair hearing request, she stated that her minor child resided in Massachusetts. The Appellant included an affidavit of Massachusetts residency for the child and the child's current [REDACTED] report card with her fair hearing request. Exhibit 2.

The hearing was held by telephone. The MassHealth representative testified that MassHealth had not received a completed renewal application from the Appellant. The MassHealth representative testified that the Appellant's household included the Appellant, the Appellant's minor child, and two of the Appellant's adult children. The MassHealth representative testified that the Appellant had not selected whether the Appellant and her minor child intended to reside in Massachusetts.

The Appellant verified her minor child's identity. The Appellant clarified that her two adult children are not part of her household and they reside outside of Massachusetts. The Appellant testified that her household is herself and her minor child.

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. Exhibit 4.
2. The Appellant has a household of two, consisting of the Appellant and her minor child. Testimony, Exhibit 4.
3. On October 22, 2024, MassHealth notified the Appellant that it was terminating the coverage for the Appellant's minor child, effective December 31, 2024, on the grounds that the child is not a resident of Massachusetts. Exhibit 1.
4. On November 19, 2024, the Appellant filed a timely appeal with the Board of Hearings. Exhibit 2.
5. As part of her appeal, the Appellant included an affidavit of Massachusetts residency for the child and the child's current [REDACTED] report card. Exhibit 2.

Analysis and Conclusions of Law

MassHealth regulations provide

503.002: Residence Requirements

As a condition of eligibility, an applicant or member must be a resident of the Commonwealth of Massachusetts.

(A) Unless otherwise specified

(1) individuals 21 years of age and older are residents of the Commonwealth if they are living in the Commonwealth and either

- (a) intend to reside in the Commonwealth, with or without a fixed address; or
- (b) have entered the Commonwealth with a job commitment or are seeking employment, whether or not they are currently employed; or

(2) individuals 21 years of age and older who are not capable of stating intent as defined in 42 CFR 435.403(c) are residents of the Commonwealth if they are living in the Commonwealth.

(3) For any other non-institutionalized individuals 21 years of age and older not subject to 130 CMR 503.002(A)(1) or (2), their residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the Transitional Assistance to Families with Dependent Children (TAFDC) program.

(B) Unless otherwise specified

(1) individuals younger than 21 years old are residents of the Commonwealth if they are capable of indicating intent and are either married or emancipated from their parents and meet the requirements of 130 CMR 503.002(A)(1); or

(2) individuals younger than 21 years old not described in 130 CMR 503.002(B)(1) are residents of the Commonwealth if they are

- (a) living in the Commonwealth, with or without a fixed address; or
- (b) living with their parent or caretaker who is a resident of the Commonwealth in accordance with the requirements of 130 CMR 503.002(A)(1).

(C) Individuals of any age who are receiving a state supplementary payment (SSP) are residents of the Commonwealth if the Commonwealth is the state paying the SSP.

(D) Individuals of any age who are receiving federal payments for foster care and adoption assistance under title IV-E of the Social Security Act are residents of the Commonwealth if the Commonwealth is the state where the individuals live.

(E) (1) The individual's residency is considered verified if the individual has attested to Massachusetts residency and the residency has been confirmed by electronic

data matching with federal or state agencies or information services.

(2) If residency cannot be verified through electronic data matching or there is conflicting information, the MassHealth agency may require documentation to validate residency.

(F) Acceptable proof of Massachusetts residency includes the following, as well as any other verification allowed as determined by the MassHealth agency:

(1) copy of deed and record of most recent mortgage payment (if mortgage is paid in full, provide a copy of property tax bill from the most recent year);

(2) current utility bill or work order dated within the past 60 days;

(3) statement from a homeless shelter or homeless service provider;

(4) school records (if school is private, additional documentation may be requested);

(5) nursery school or daycare records (if school is private, additional documentation may be requested);

(6) Section 8 agreement;

(7) homeowner's insurance agreement;

(8) proof of enrollment of custodial dependent in public school;

(9) copy of lease and record of most recent rent payment; or

(10) affidavit supporting residency signed under pains and penalties of perjury that states the individual is not visiting Massachusetts for personal pleasure or to receive medical care in a setting other than a nursing facility.

(G) Examples of applicants or members who do not meet the residency requirement for MassHealth are

(1) individuals who came to Massachusetts for the purpose of receiving medical care in a setting other than a nursing facility, and who maintain a residence outside of Massachusetts;

(2) individuals visiting Massachusetts for personal pleasure, who maintain a residence outside of Massachusetts; and

(3) individuals whose whereabouts are unknown.

(H) Inmates of penal institutions may not receive MassHealth benefits except under one of the following conditions, if they are otherwise eligible for MassHealth:

(1) they are inpatients in a medical facility; or

(2) they are living outside of the penal institution, are on parole, probation, or home release, and are not returning to the institution for overnight stays.

130 CMR 503.002 (emphases added)

502.006: Coverage Dates

....

(B) Coverage Dates for Existing Members Who Have a Change in Benefits. The date of coverage for existing members whose MassHealth coverage type changes due to a change in circumstances are described in 130 CMR 502.006(B)(1) through (4).

(1) For existing members who are pregnant or younger than 19 years of age, when an eligibility determination results in a more comprehensive benefit, except as described in 502.006(C)

(a) if covered medical services were received during such period, and the individual would have been eligible at the time services were provided, the start date of the new coverage may be retroactive to the first day of the third calendar month prior to

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(b) if covered medical services were not received during such period, or the individual would not have been eligible at the time services were provided, the start date of the new coverage is ten days prior to

1. the receipt of the requested verifications;
2. the receipt date of the annual renewal;
3. the date of the eligibility determination for reported changes that do not result in request for verification; or
4. the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(2) for existing members not described in 130 CMR 502.006 (B)(1), when an eligibility determination results in a more comprehensive benefit, except as described at 130 CMR 502.006(C), the start date of the new coverage is ten days prior to

- (a) the receipt of the requested verifications;
- (b) the receipt date of the annual renewal;
- (c) the date of the eligibility determination for reported changes that do not result in request for verification; or
- (d) the date of the MassHealth agency's eligibility determination due to information in the member's case file;

(3) for existing members whose eligibility determination results in a less comprehensive benefit, the end date of the existing coverage is no sooner than 14 days from the date of the notice unless the MassHealth member files an appeal in a timely manner and requests continued MassHealth benefits pending such an appeal or reinstatement of benefits as described at 130 CMR 610.036: *Continuation of Benefits Pending Appeal* and the start date of the new coverage is ten days prior to

- (a) the receipt of the requested verifications;
- (b) the receipt date of the annual renewal;

- (c) the date of the eligibility determination for reported changes; or
- (d) the date of the MassHealth agency's eligibility determination due to information in the member's case file;
- (4) for existing members, effective dates for changes in premium payments are described at 130 CMR 506.011(C).

130 CMR 502.006(B).

610.071: Evidence

(A) General.

(1) The rules of evidence observed by courts do not apply to fair hearings, but the hearing officer observes the rules of privilege recognized by law. Evidence may be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.

Unduly repetitious or clearly irrelevant evidence may be excluded.

(2) The hearing officer may not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.

130 CMR 610.071(A).

Here, the Appellant provided evidence that the Appellant's minor child is a Massachusetts resident on November 19, 2024. Exhibit 2 at 3-4. The Appellant provided acceptable proof in the form of the child's school records and an affidavit signed under pain and penalty of perjury. 130 CMR 503.002(F)(4), (F)(10). The Appellant provided this evidence to the Board of Hearings as part of the fair hearing request, prior to the Appellant's minor child's benefit terminating December 31, 2024. Accordingly, the appeal is approved. MassHealth is directed to reinstate the Appellant's minor child's benefit without a lapse of coverage. 130 CMR 502.006(B)(1)(a)1., (B)(1)(b)1.; 130 CMR 610.071(A)(2).

Order for MassHealth

Reinstate the Appellant's minor child's benefit without a lapse of coverage.

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.

Emily Sabo
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957