

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2418565
Decision Date:	2/5/2025	Hearing Date:	01/13/2025
Hearing Officer:	Thomas J. Goode	Record Open to:	01/17/2025

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Christine Richelson, Tewksbury MEC

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:	Eligibility
Decision Date:	2/5/2025	Hearing Date:	01/13/2025
MassHealth's Rep.:	Christine Richelson	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 November 30, 2024, MassHealth denied Appellant's application for MassHealth benefits due to immigration status, and because MassHealth determined that income exceeds program limits (130 CMR 505.001, 504.006, 505.006 and Exhibit 1). Appellant filed this appeal in a timely manner on December 5, 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 denied Appellant's application for MassHealth benefits due to immigration status and because MassHealth determined that income exceeds program limits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 504.006, 505.006 in determining that Appellant does not meet immigration requirements and income exceeds MassHealth program limits.

Summary of Evidence

The MassHealth representative testified that Appellant completed a renewal application on November 13, 2024. Appellant has not been determined to be disabled by MassHealth or the Social Security Administration and resides with his spouse and 2 children in a household size of 4. Appellant and his spouse file a joint tax return with both children claimed as tax dependents. Appellant and other household members were receiving MassHealth Standard coverage prior to submitting the renewal application. Appellant's spouse and 2 children were approved for an extension of MassHealth Standard Transitional Medical Assistance (TMA) because income exceeded the limit for MassHealth Standard. Appellant was also receiving MassHealth Standard coverage, however, Appellant's immigration status was incorrectly documented. On December 26, 2024, Appellant updated his immigration status to MassHealth. Appellant is a legal permanent resident and attained that status on April 29, 2022. MassHealth testified that Appellant's immigration status equates to Qualified Non-Citizen-Barred, which requires that 5 years elapse before there is eligibility for MassHealth Standard coverage. Appellant is eligible for Health Safety Net and a Health Connector Plan, and is not eligible for TMA coverage. During a hearing record open period, Appellant verified his household's income, which reflects his spouse's seasonal income. Total household income is \$6,363.53 consisting of Appellant's spouse's seasonal income of \$18,740 averaged over 12 months to equal \$1,561.67 per month, Appellant's spouse's income of \$1,800 bi-weekly which equates to \$3,900 per month, and Appellant's income of \$901.26 per month. For a household size of 4, total household income equates to 239.75% of the federal poverty level.

Appellant testified that his spouse has two jobs, one of which is seasonal. Appellant verified his immigration status and asserted that he should be eligible for MassHealth coverage.

Findings of Fact

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

1. Appellant is between 21 and 64 years of age.
2. Appellant has not been determined to be disabled by MassHealth or the Social Security Administration.
3. Appellant is not receiving EAEDC.
4. Appellant completed a renewal application on November 13, 2024.
5. Appellant resides with his spouse and 2 children in a household size of 4.

6. Appellant and his spouse file a joint tax return with both children claimed as tax dependents.
7. Appellant and other household members were receiving MassHealth Standard coverage prior to submitting the renewal application. Appellant's spouse and 2 children were approved for an extension of MassHealth Standard Transitional Medical Assistance (TMA) because income exceeded the limit for MassHealth Standard.
8. Appellant is a legal permanent resident and attained that status on April 29, 2022.
9. Appellant's immigration status equates to Qualified Non-Citizen-Barred.
10. Total household income is \$6,363.53 consisting of Appellant's spouse's seasonal income of \$18,740 averaged over 12 months to equal \$1,561.67 per month, Appellant's spouse's income of \$1,800 bi-weekly which equates to \$3,900 per month, and Appellant's income of \$901.26 per month.
11. 133 % of the federal poverty level for a household size of 4 is \$3,563 (2025).

Analysis and Conclusions of Law

Pursuant to 130 CMR 504.003(A) Qualified noncitizens, qualified noncitizens barred, and nonqualified individuals lawfully present are considered lawfully present immigrants.

Regulation 130 CMR 504.003(A)(1)(b):

(b) noncitizens who are qualified based on having a qualified status identified in 130 CMR 504.003(A)(1)(b)1. and who have satisfied one of the conditions listed in 130 CMR 504.003(A)(1)(b)2. Such individuals

1. have one or more of the following statuses:
 - a. admitted for legal permanent residence (LPR) under the Immigration and Nationality Act (INA); or
 - b. granted parole for at least one year under section 212(d)(5) of the INA;
or
 - c. are the battered spouse, battered child, or child of battered parent or parent of battered child who meets the criteria of section 431(c) of PRWORA; and also
2. satisfy at least one of the three following conditions:
 - a. they have had a status in 130 CMR 504.003(A)(1)(b)1 for five or more years (a battered noncitizen attains this status when the petition is accepted as establishing a prima facie case);
 - b. they entered the U.S. prior to August 22, 1996, regardless of status at

the time of entry, and have been continuously present in the U.S. until attaining a status listed in 130 CMR 504.003(A)(1)(b)1.; for this purpose an individual is deemed continuously present who has been absent from the U.S. for no more than 30 consecutive days or 90 nonconsecutive days prior to attaining a status listed in 130 CMR 504.003(A)(1)(b)1.; or
c. they also have or had a status listed in 130 CMR 504.003(A)(1)(a).

Regulation 130 CMR 504.003 (A)(2) applies to Appellant's immigrations status:

Qualified Noncitizens Barred. Individuals who have a status listed at 130 CMR 504.003(A)(1)(b)(1) (Legal Permanent Resident, parolee for at least one year, or battered noncitizen) and do not meet one of the conditions in 130 CMR 504.003(A)(1)(b)(2). Qualified noncitizens barred, like qualified noncitizens, are lawfully present nonqualified individuals.

Applicable Coverage Types are described at 130 CMR 504.006:

(A) Citizens, qualified noncitizens, and protected noncitizens may receive MassHealth under any coverage type if they meet the eligibility requirements described in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(B) Qualified noncitizens barred and nonqualified individuals lawfully present may receive the following coverage.

(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).*

Pursuant to 130 CMR 505.006(B)(1)(c), MassHealth Limited is available to qualified noncitizens barred, as described in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, and nonqualified individuals lawfully present, as described in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present* who are:

1. adults, including parents and caretaker relatives, 21 through 64 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL;
2. 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;
3. parents and caretakers who are 21 through 64 years old who are receiving EAEDC; and
4. adults 21 through 64 years old who are receiving EAEDC.

Due to Appellant's immigration status as Qualified Noncitizen Barred, MassHealth correctly determined that Appellant is not eligible for MassHealth Standard coverage including Transitional Medical Assistance which is available to members who are citizens and qualified noncitizens (See 130 CMR 505.002(L)(3)(d)).¹ The only potential MassHealth eligibility category that applies to Appellant's status is MassHealth Limited.

Pursuant to 130 CMR 506.003, countable household income includes earned income described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) less deductions described in 130 CMR 506.003(D).² Appellant did not submit evidence of expenses corresponding to the allowable deductions enumerated at 130 CMR 506.003(D). Income of all household members forms the basis for establishing an individual's eligibility (130 CMR 506.007). Here, Appellant's gross earned income and his spouse's gross earned income form the basis for establishing Appellant's eligibility for MassHealth. In determining monthly income for MassHealth purposes, five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine eligibility of the individual under the coverage type with the highest income standard (130 CMR 506.007(A)). Total household income is \$6,363.53 consisting of Appellant's spouse's seasonal income of \$18,740 averaged over 12 months to equal \$1,561.67 monthly, Appellant's spouse's income of \$1,800 bi-

¹ Eligibility of other household members is not reviewed here as the November 30, 2024 notice applies only to Appellant's eligibility.

² MassHealth allows the following deductions from countable income when determining MAGI: educator expenses; reservist/performance artist/fee-based government official expenses; health savings account; moving expenses; self-employment tax; self-employment retirement account; penalty on early withdrawal of savings; alimony paid to a former spouse; individual retirement account (IRA); student loan interest; and higher education tuition and fees (130 CMR 506.003(D)).

weekly which equates to \$3,900 per month³, and Appellant's earned income of \$901.26 per month, and places Appellant at 232% of the federal poverty level [$\$6,363 - \$134^4 = \$6,229$] [$\$6,229 \div \$2,679 \times 100 = 232\%$]. Based on updated Federal Poverty Levels for 2025, Appellant's countable income exceeds 133% of the federal poverty level for a household size of 4 [$\$3,563,$] making Appellant ineligible for MassHealth Limited (130 CMR 505.006(B)(1)(c)(1)). MassHealth correctly determined Appellant's MassHealth eligibility, and the appeal is DENIED. Appellant can direct any questions about the Health Connector to 1-877-623-6765 and can direct any question about the Health Safety Net to 877-910-2100.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

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

³ $\$1,800/2 = \$900 \times 4.333 = \$3,900$.

⁴ 5% of \$2,679 (2025).