

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2500204
Decision Date:	3/24/2025	Hearing Date:	02/06/2025
Hearing Officer:	Emily Sabo	Record Open to:	03/06/2025

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Shanell Santiago, 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; Income; Immigration Status
Decision Date:	3/24/2025	Hearing Date:	02/06/2025
MassHealth's Rep.:	Shannell Santiago	Appellant's Rep.:	Pro se
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 November 27, 2024, MassHealth notified the Appellant that her MassHealth benefits were being downgraded from Family Assistance to Health Safety Net. 130 CMR 504.000 and Exhibit 1. The Appellant filed this appeal in a timely manner on January 1, 2025, stating that she was pregnant, and the ending of her coverage impacted her medical appointments and treatment. 130 CMR 610.015(B) and Exhibit 2. Termination of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded the Appellant's benefit from Family Assistance to Health Safety Net.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 504.000, in downgrading the Appellant's benefit from Family Assistance to Health Safety Net.

Summary of Evidence

The hearing was held by telephone. The MassHealth representative testified that in November 2024, MassHealth received proof of the Appellant's immigration status and that the Appellant's immigration status is as a qualified noncitizen under 130 CMR 504.003. The MassHealth representative testified that the Appellant's household income was \$6,371.90/month. The MassHealth representative testified that the source of the income is the Appellant's husband's self-employment income, and that the household's annual income is \$76,462.82. The MassHealth representative testified that the Appellant has a household size of three, consisting of the Appellant, her spouse, and their minor child. The MassHealth representative testified that as the Appellant is pregnant, the Appellant's unborn child is not considered part of the household.

The Appellant verified her identity. The Appellant testified that she is married, has a small child, and is pregnant with a second child, who is due the following week. The Appellant testified that MassHealth's income information was incorrect. The Appellant testified that she is not employed and her husband lost his accounting job a year ago. The Appellant testified that the household's income now comes from her husband's work as a self-employed ride-share driver and that it is approximately \$60,000/annually before taxes.

The record was held open until February 20, 2025, for the Appellant to submit her household's 2024 tax documents, including their 1040, Schedule 1, Schedule C, and self-employment profit-loss statement. Exhibit 5. The record was held open until March 6, 2025, for MassHealth to review and respond. The Board of Hearings did not receive any records during the record open period and the MassHealth representative confirmed that MassHealth did not receive any submissions from the Appellant. Exhibit 6.

Findings of Fact

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

1. The Appellant is an adult between the ages of 21-64. Exhibit 4.
2. The Appellant is pregnant. Testimony.
3. The Appellant's household also includes her husband and minor child. Testimony.

4. The Appellant's immigration status is a lawfully present, qualified noncitizen under 130 CMR 504.003. Testimony.
5. The Appellant's household income is \$6,371.90/month. Testimony.
6. On November 27, 2024, MassHealth notified the Appellant that her benefit was being downgraded from Family Assistance to Health Safety Net. Exhibit 1.
7. On January 1, 2025, the Appellant timely appealed the notice to the Board of Hearings. Exhibit 2.
8. The Appellant's unborn child is considered a member of her household.

Analysis and Conclusions of Law

MassHealth regulations provide the following:

504.003: Immigrants

(A) Lawfully Present Immigrants. Qualified noncitizens, qualified noncitizens barred, and nonqualified individuals lawfully present are considered lawfully present immigrants. The applicable coverage for qualified noncitizens, qualified noncitizens barred, and nonqualified individuals lawfully present is listed in 130 CMR 504.006.

(1) Qualified Noncitizens. There are two groups of qualified noncitizens:

(a) those who are qualified regardless of when they entered the U.S. or how long they had a qualified status. Such individuals are

1. persons granted asylum under section 208 of the INA;
2. Refugees admitted under section 207 of the INA;
3. persons whose deportation has been withheld under section 243(h) or 241(b)(3) of the INA, as provided by section 5562 of the federal Balanced Budget Act of 1997;
4. veterans, their spouses, and their children
 - a. veterans of the United States Armed Forces with an honorable discharge not related to their noncitizen status;
 - b. Filipino war veterans who fought under U.S. command during WWII;
 - c. Hmong and Highland Lao veterans who are admitted for legal permanent residence (LPR) and who fought under U.S. command during the Vietnam War;
 - d. persons with noncitizen status on active duty in the U.S. Armed Forces, other than active duty for training; or

- e. the spouse, unremarried surviving spouse, or unmarried dependent children of the noncitizen described in 130 CMR 504.003(A)(1)(a)4. a. through d.;
 - 5. Conditional Entrants under section 203(a)(7) of the INA in effect before April 1, 1980;
 - 6. persons who entered as Cuban/Haitian entrants under section 501(e) of the Refugee Education Assistance Act of 1980;
 - 7. Native Americans with at least 50 percent American Indian blood who were born in Canada, pursuant to section 289 of the INA or other tribal members born in territories outside of the U.S. pursuant to 25 U.S.C. 450b(e), under Medicaid;
 - 8. Amerasians as described in section 402(a)(2)(A)(i)(V) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA);
 - 9. Victims of severe forms of trafficking; and spouse, child, sibling, or parent of the victim, in accordance with the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106-386);
 - 10. Iraqi Special Immigrants granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act, pursuant to section 1244 of Public Law 110-181 or section 525 of Public Law 110-161;
 - 11. Afghan Special Immigrants granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act, pursuant to section 525 of Public Law 110-161; or
 - 12. Migrants from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who legally reside in the United States pursuant to a series of treaties with the United States known as the Compacts of Free Association (COFA), under Medicaid.
 - a. COFA migrants who adjust to legal permanent residence (LPR) status will have a special five-year bar rule applied. The individual will be subject to the special five-year bar rule unless they also have or had a status listed at 130 CMR 504.003(A)(1)(a). The special five-year bar rule that applies will depend upon the date the individual adjusted to LPR status.
 - b. COFA migrants who adjust to LPR status after the change of law on December 27, 2020, will be able to use the date they began residing in the United States as a COFA migrant or December 27, 2020, whichever is later, as the first day for purposes of meeting the five-year bar.
 - c. COFA migrants who adjusted to LPR status before the change of law on December 27, 2020, will have the five-year bar period begin on the date that they adjusted to LPR.
- (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).

130 CMR 504.003(A)(1).

504.006: Applicable Coverage Types

(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*.

130 CMR 504.006(A).

505.002: MassHealth Standard

(A) Overview.

(1) 130 CMR 505.002 contains the categorical requirements and financial standards for MassHealth Standard serving children, young adults, parents, caretaker relatives, people who are pregnant, disabled individuals, certain individuals with breast or cervical cancer, certain individuals who are HIV positive, independent foster-care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F).

(2) Persons who receive Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA) are eligible for MassHealth Standard.

(3) Persons who receive Transitional Aid to Families with Dependent Children (TAFDC) cash assistance from the Department of Transitional Assistance (DTA) are eligible for MassHealth Standard.

(4) Children, young adults, and parents and caretaker relatives who receive Emergency Aid

to the Elderly, Disabled and Children (EAEDC) cash assistance are eligible for MassHealth Standard if they meet the citizenship and immigration requirements described at 130 CMR 504.002: *U.S. Citizens* and 130 CMR 504.003(A)(1): *Qualified Noncitizens*, (2): *Qualified Noncitizens Barred*, and (3): *Nonqualified Individuals Lawfully Present*.

(5) Persons who do not otherwise meet the requirements of 130 CMR 505.002, but who meet the AFDC rules that were in effect on July 16, 1996, are eligible for MassHealth Standard.

(6) Persons eligible for MassHealth Standard coverage are eligible for medical benefits as described at 130 CMR 450.105(A): *MassHealth Standard* and 130 CMR 508.000: *MassHealth: Managed Care Requirements*.

....

(C) Eligibility Requirements for Parents and Caretaker Relatives.

(1) A parent or caretaker relative of a child younger than 19 years old is eligible for MassHealth Standard coverage if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level (FPL);

(b) the individual is a citizen as described at 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens*; and

(c) 1. the parent lives with their children, and assumes primary responsibility for the child's care, in the case of a parent who is separated or divorced, has custody of their children, or has children who are absent from home to attend school; or

2. the caretaker relative lives with children to whom they are related by blood, adoption, or marriage (including stepsiblings), or is a spouse or former spouse of one of those relatives, and assumes primary responsibility for the child's care if neither parent lives in the home.

(2) The parent or caretaker relative complies with 130 CMR 505.002(M).

(D) Eligibility Requirements for People who are Pregnant.

(1) A person who is pregnant is eligible if

(a) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 200% of the federal poverty level (FPL); and

(b) the individual is a citizen as described in 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrant, nonqualified PRUCOL, or other noncitizen as described in 130 CMR 504.003: *Immigrants*.

(2) In determining the MassHealth MAGI household size, the unborn child or children are counted as if born and living with the mother.

(3) Eligibility, once established, continues for the duration of the pregnancy.

(4) Eligibility for postpartum care for pregnant individuals who meet the requirements of 130 505.002(B)(2) and (3), (C) through (H), and (L) continues for 12 months following the termination of the pregnancy plus an additional period extending to the end of the month in which the 12-month period ends.

....

(M) Use of Potential Health Insurance Benefits. Applicants and members must use potential health insurance benefits in accordance with 130 CMR 503.007: *Potential Sources of Health Care*, and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than they would pay without access to health insurance, or if purchased by MassHealth in accordance with 130 CMR 505.002(O) or 130 CMR 506.012: *Premium Assistance Payments*. Members must access other health insurance benefits and must show their private health insurance card and their MassHealth card to providers at the time services are provided.

(N) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Standard.

(1) MassHealth may perform an investigation to determine if individuals receiving MassHealth Standard

(a) have health insurance that MassHealth may help pay for; or

(b) have access to employer-sponsored health insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

(2) The individual receives MassHealth Standard while MassHealth investigates the insurance.

(a) Investigations for Individuals Who Are Enrolled in Health Insurance.

1. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Standard Premium Assistance Payments as described at 130 CMR 506.012: *Premium Assistance Payments*.

2. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is eligible for MassHealth Standard Direct Coverage.

3. Individuals described at 130 CMR 505.002(F)(1)(d) will not undergo an investigation.

(b) Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance.

1. If MassHealth determines the individual has access to employer-sponsored health insurance and the employer is contributing at least 50% of the premium cost and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Standard Premium Assistance Payments as described in 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility for all individuals unless the individual is younger than 21 years old or is pregnant.

2. If MassHealth determines the individual does not have access to employer-

sponsored health insurance, the individual is eligible for MassHealth Standard Direct Coverage.

3. Individuals described at 130 CMR 505.002(F) and (G) will not undergo an investigation.

....

(P) Medical Coverage Date.

(1) The medical coverage date for Mass Health Standard is described at 130 CMR 502.006: *Coverage Dates*, except as described at 130 CMR 505.002(P)(2).

(2) Provisional eligibility is described in 130 CMR 502.003(E): *Provisional Eligibility*.

130 CMR 505.002 (A), (C), (D), (M), (N), (P).

505.005: MassHealth Family Assistance

(A) Overview. 130 CMR 505.005 contains the categorical requirements and financial standards for MassHealth Family Assistance.

(1) Children who are citizens, as defined in 130 CMR 504.002: *U.S. Citizens*, lawfully present immigrants, as defined in 130 CMR 504.003(A): *Lawfully Present Immigrants*, or nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL) are eligible for MassHealth Family Assistance.

(2) Children and young adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is at or below 150% of the FPL are eligible for MassHealth Family Assistance. Children under age one who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is at or below 200% of the FPL are eligible for MassHealth Family Assistance. Young adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the FPL are eligible for MassHealth Family Assistance.

(3) Adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth MAGI household is at or below 300% of the FPL are eligible for MassHealth Family Assistance.

(4) HIV-positive individuals who are citizens as defined in 130 CMR 504.002: *U.S. Citizens* and qualified noncitizens as defined in 130 CMR 504.003(A)(1): *Qualified Noncitizens*, whose modified adjusted gross income of the MassHealth MAGI household is greater than 133 and less than or equal to 200% of the FPL are eligible for MassHealth Family Assistance.

(5) Disabled adults who are qualified noncitizens barred, as defined in 130 CMR

504.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as defined in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present*, or nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, whose modified adjusted gross income of the MassHealth Disabled Adult household is at or below 100% of the FPL are eligible for MassHealth Family Assistance.

(6) Certain Emergency Aid to the Elderly, Disabled and Children (EAEDC) recipients are eligible for MassHealth Family Assistance.

(7) Persons eligible for MassHealth Family Assistance must obtain and maintain all available health insurance as described in 130 CMR 503.007: *Potential Sources of Health Care*.

(B) Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 150% and Less than or Equal to 300% of the Federal Poverty Level. Children younger than 19 years old are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(B) if they meet the following criteria.

(1) Eligibility Requirements. A child is eligible if

- (a) the child is younger than 19 years old;
- (b) the child's modified adjusted gross income of the MassHealth MAGI household is greater than 150 and less than or equal to 300% of the federal poverty level (FPL);
- (c) the child is ineligible for MassHealth Standard or CommonHealth;
- (d) the child is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or a lawfully present immigrant as defined in 130 CMR 504.003(A), or a nonqualified PRUCOL, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*;
- (e) the child complies with 130 CMR 505.005(B)(2) and meets one of the following criteria:

- 1. the child is uninsured; or
- 2. the child has health insurance that meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*.

(2) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Family Assistance. MassHealth may perform an investigation to determine if individuals potentially eligible for MassHealth Family Assistance

- (a) have health insurance that MassHealth can help pay for; or
- (b) have access to employer-sponsored insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

1. Investigations for Individuals Who Are Enrolled in Health Insurance.

a. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Family Assistance Premium Assistance Payments as described at 130 CMR 450.105(G)(1): *Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*.

b. If MassHealth determines that the health insurance the individual is

enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual continues to be eligible for MassHealth Family Assistance.

2. Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance (ESI).

a. If MassHealth determines the individual has access to employer-sponsored health insurance, the employer is contributing at least 50% of the premium cost, and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage that meets the criteria described in 130 CMR 506.012: *Premium Assistance Payments*. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Family Assistance Premium Assistance Payments as described in 130 CMR 450.105(G)(1): *Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth will result in the loss or denial of eligibility.

b. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth Family Assistance.

(C) Eligibility Requirements for Children and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 150% of the Federal Poverty Level. Children and young adults who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(C) if they meet the following criteria.

(1) Eligibility Requirements. The individual is eligible if

- (a) the individual is younger than 19 years old and the individual's modified adjusted gross income of the MassHealth MAGI household is at or below 300% of the federal poverty level (FPL);
- (b) the individual is a young adult and individual's modified adjusted gross income of the MassHealth MAGI household is at or below 150% of the FPL;
- (c) the individual is ineligible for MassHealth Standard or MassHealth CommonHealth;
- (d) the individual is a nonqualified PRUCOL, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*; and
- (e) the individual complies with 130 CMR 505.005(C)(2).

(2) Investigations for Individuals Who Have Potential Access to Employer-sponsored Insurance. MassHealth may perform an investigation to determine if individuals potentially eligible for MassHealth Family Assistance

- (a) have health insurance that MassHealth can help pay for; or
- (b) have access to employer-sponsored insurance in which MassHealth wants the

individual to enroll and for which MassHealth will help pay.

1. Investigations for Individuals Who Are Enrolled in Health Insurance.

a. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Family Assistance Premium Assistance Payments as described at 130 CMR 450.105(G)(1): *Premium Assistance* and (2): *Payment of Copayments, Coinsurance, and Deductibles for Certain Children Who Receive Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*.

b. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual continues to be eligible for MassHealth Family Assistance.

2. Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance (ESI).

a. If MassHealth determines the individual has access to employer-sponsored health insurance, the employer is contributing at least 50% of the premium cost, and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage that meets the criteria described in 130 CMR 506.012: *Premium Assistance Payments*. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Family Assistance Premium Assistance Payments as described in 130 CMR 450.105(G)(1): *Premium Assistance* and (2): *Payment of Copayments, Coinsurance, and Deductibles for Certain Children Who Receive Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth may result in the loss or denial of eligibility.

b. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth Family Assistance.

(D) Eligibility Requirement for Adults and Young Adults Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 300% of the Federal Poverty Level. Individuals who are nonqualified PRUCOLs, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(D) if they meet the following criteria.

(1) The individual is eligible if

(a) the individual is a nonqualified PRUCOL, as defined in 130 CMR 504.003(C):

Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs);

(b) the individual is ineligible for MassHealth Standard or MassHealth CommonHealth;

(c) the individual is uninsured;

(d) the individual does not have access to affordable Minimum Essential Coverage as defined in section 1401 of the Patient Protection and Affordable Care Act; and

(e) the individual is either

1. a young adult 19 or 20 years old with modified adjusted gross income of the MassHealth MAGI household greater than 150 and less than or equal to 300% of the federal poverty level (FPL); or

2. 21 through 64 years old with modified adjusted gross income of the MassHealth MAGI household at or below 300% of the FPL.

(2) Members eligible for benefits described in 130 CMR 505.005(D) receive MassHealth Family Assistance benefits described in 130 CMR 450.105(G)(4): *Managed Care Participation* and 130 CMR 508.000: *MassHealth: Managed Care Requirements*.

(E) Eligibility Requirement for HIV-positive Individuals Who Are Citizens or Qualified Noncitizens with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 133 and Less than or Equal to 200% of the Federal Poverty Level. Individuals who are HIV positive are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(E) if they meet the following criteria.

(1) The individual is eligible if

(a) the individual is younger than 65 years old;

(b) the individual is ineligible for MassHealth Standard or MassHealth CommonHealth;

(c) the individual's modified adjusted gross income of the MassHealth MAGI household is greater than 133 and less than or equal to 200% of the FPL;

(d) the individual is a citizen as defined in 130 CMR 504.002: *U.S. Citizens* or qualified noncitizen, as defined in 130 CMR 504.003(A)(1): *Qualified Noncitizens*; and

(e) the individual has verified their HIV-positive status by providing a letter from a doctor, qualifying health clinic, laboratory, or AIDS service provider or organization. The letter must indicate the individual's name and their HIV-positive status.

(2) Health Insurance Investigation. MassHealth may perform an investigation to determine if individuals receiving MassHealth Family Assistance have health insurance that MassHealth may help pay for, as described at 130 CMR 506.012: *Premium Assistance Payments*.

(a) If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Family Assistance Premium Assistance Payments as described at 130 CMR 450.105(G)(1): *Premium Assistance* and (2): *Payment of Copayments, Coinsurance, and Deductibles for Certain Children Who Receive Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*.

(b) If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is eligible for MassHealth Family Assistance Direct Coverage.

(3) Unless otherwise indicated in 130 CMR 505.005(E)(2), individuals determined eligible for MassHealth Family Assistance as described in 130 CMR 505.005(E) will receive benefits as described in 130 CMR 450.105(G)(4): *Managed Care Participation*.

(F) Eligibility Requirement for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal Poverty Level. Individuals who are disabled adults are eligible for MassHealth Family Assistance coverage described in 130 CMR 505.005(F) if they meet the following criteria.

(1) Eligibility Requirements. The individual is eligible if

- (a) the individual is totally and permanently disabled as defined in 130 CMR 501.001: *Definition of Terms*;
- (b) the individual is younger than 65 years old;
- (c) the individual is ineligible for MassHealth Standard or MassHealth CommonHealth;
- (d) the individual's modified adjusted gross income of the MassHealth Disabled Adult household is at or below 100% of the FPL; and
- (e) the individual is a qualified noncitizen barred as described in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individual lawfully present, as defined in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present*, or a nonqualified PRUCOL, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*.

(2) Determination of Disability. Disability is established by

- (a) certification of legal blindness by the Massachusetts Commission of the Blind (MCB);
- (b) a determination of disability by the Social Security Administration (SSA); or
- (c) a determination of disability by the Disability Evaluation Services (DES).

(3) Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Family Assistance. MassHealth may perform an investigation to determine if individuals potentially eligible for MassHealth Family Assistance

- (a) are enrolled in health insurance that MassHealth can help pay for; or
- (b) have access to employer-sponsored insurance in which MassHealth wants the individual to enroll and for which MassHealth will help pay.

1. Investigations for Individuals Who Are Enrolled in Health Insurance.

- a. If MassHealth determines that the health insurance the individual is enrolled in meets the criteria at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that MassHealth will provide MassHealth Family Assistance Premium Assistance Payments as described at 130 CMR 450.105(G)(1): *Premium Assistance* and (2): *Payment of Copayments, Coinsurance, and Deductibles for Certain Children Who Receive Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*.
- b. If MassHealth determines that the health insurance the individual is enrolled in does not meet the criteria at 130 CMR 506.012: *Premium*

Assistance Payments, the individual continues to be eligible for MassHealth Family Assistance Direct Coverage.

2. Investigations for Individuals Who Have Potential Access to Employer-sponsored Health Insurance (ESI).

a. If MassHealth determines the individual has access to employer-sponsored health insurance and the employer is contributing at least 50% of the premium cost and the insurance meets all other criteria described at 130 CMR 506.012: *Premium Assistance Payments*, the individual is notified in writing that they must enroll in this employer-sponsored coverage that meets the criteria described in 130 CMR 506.012: *Premium Assistance Payments*. MassHealth allows the individual up to 60 days to enroll in this coverage. Once enrolled in this health insurance plan, MassHealth provides MassHealth Family Assistance Premium Assistance Payments as described in 130 CMR 450.105(G)(1): *Premium Assistance* and (2): *Payment of Copayments, Coinsurance, and Deductibles for Certain Children Who Receive Premium Assistance* and 130 CMR 506.012: *Premium Assistance Payments*. Failure to enroll in the employer-sponsored health insurance plan at the request of MassHealth may result in the loss or denial of eligibility.

b. If MassHealth determines the individual does not have access to employer-sponsored health insurance, the individual continues to be eligible for MassHealth Family Assistance.

(G) Eligibility Requirements for Certain Emergency Aid for Elderly, Disabled and Children (EAEDC) Recipients.

(1) Eligibility Requirements. Certain EAEDC recipients are eligible for MassHealth Family Assistance if

(a) the individual is

1. a child or a young adult and is a nonqualified PRUCOL as described at 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*; or

2. a parent, caretaker relative, or adult 21 through 64 years of age who is a qualified noncitizen barred, as described in 130 CMR 504.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individual lawfully present, as defined in 130 CMR 504.003(A)(3): *Nonqualified Individuals Lawfully Present*, or a nonqualified PRUCOL, as defined in 130 CMR 504.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*; and

(b) the individual receives EAEDC cash assistance.

(2) Extended Eligibility. Individuals whose EAEDC cash assistance ends and who are determined to be potentially eligible for MassHealth continue to receive medical benefits under MassHealth Family Assistance until a determination of ineligibility is made by MassHealth.

(H) MassHealth Family Assistance Premiums. Individuals who meet the requirements of 130 CMR 505.005 may be assessed a premium in accordance with the premium schedule provided at 130 CMR 506.011(B)(3) through (5).

(I) MassHealth Family Assistance Coverage Begin Date.

(1) The medical coverage date for MassHealth Family Assistance is described at 130 CMR 502.006: *Coverage Dates*, except as described at 130 CMR 505.005(B) and 130 CMR 505.005(I)(2) and (3).

(2) Provisional eligibility is described in 130 CMR 502.003(E): *Provisional Eligibility*.

(3) For those individuals eligible for MassHealth Family Assistance as described at 130 CMR 505.005(B), the begin date of the Premium Assistance is in accordance with 130 CMR 506.012(F)(1)(d).

(J) Postpartum Coverage. For people who are pregnant, MassHealth will provide postpartum care for 12 months following the termination of a pregnancy plus an additional period extending to the end of the month in which the 12-month period ends.

130 CMR 505.005 (emphasis added)

506.002: Household Composition

(A) Determination of Household Composition. MassHealth determines household size at the individual member level. MassHealth determines household composition in two ways.

(1) MassHealth Modified Adjusted Gross Income (MAGI) Household Composition. MassHealth uses the MassHealth MAGI household composition rules to determine member eligibility for the following benefits:

- (a) MassHealth Standard, as described in 130 CMR 505.002(B), (C), (D), (F), and (G);
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(F) and (G);
- (c) MassHealth CarePlus, as described in 130 CMR 505.008: *MassHealth CarePlus*;
- (d) MassHealth Family Assistance, as described in 130 CMR 505.005(B) through (E);
- (e) MassHealth Limited, as described at 130 CMR 505.006: *MassHealth Limited*; and
- (f) Children's Medical Security Plan (CMSP), as described in 130 CMR 522.004: *Children's Medical Security Plan (CMSP)*.

(2) MassHealth Disabled Adult Household. MassHealth uses the MassHealth Disabled Adult household composition rules to determine member eligibility for the following benefits:

- (a) MassHealth Standard, as described in 130 CMR 505.002(E): *Disabled Adults*;
- (b) MassHealth CommonHealth, as described in 130 CMR 505.004(B) through (E); and
- (c) MassHealth Family Assistance, as described in 130 CMR 505.005(F): *Eligibility Requirement for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal*

Poverty Level.

(B) MassHealth MAGI Household Composition.

(1) Taxpayers Not Claimed as a Tax Dependent on Their Federal Income Taxes. For an individual who expects to file a tax return for the taxable year in which the initial determination or renewal of eligibility is being made and who is not claimed as a tax dependent by another taxpayer, the household consists of

- (a) the taxpayer, including their spouse, if the taxpayers are married and filing jointly regardless of whether they are living together;
- (b) the taxpayer's spouse, if living with them regardless of filing status;
- (c) all persons the taxpayer expects to claim as tax dependents; and
- (d) if any individual described in 130 CMR 506.002(B)(1)(a) through (c) is pregnant, the number of expected children.

(2) Individuals Claimed as a Tax Dependent on Federal Income Taxes.

(a) For an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the initial determination or renewal of eligibility is being made and who does not otherwise meet the Medicaid exception rules as described in 130 CMR 506.002(B)(2)(b)1., 2., or 3., the household consists of

- 1. the individual;
- 2. the individual's spouse, if living with them;
- 3. the taxpayer claiming the individual as a tax dependent;
- 4. any of the taxpayer's tax dependents; and
- 5. if any individual described in 130 CMR 506.002(B)(2)(a)1. through 4. is pregnant, the number of expected children.

(b) Medicaid Exceptions. Household size must be determined in accordance with non-tax filer rules for any of the following individuals:

- 1. individuals other than the spouse or natural, adopted, or stepchild who expect to be claimed as a tax dependent by the taxpayer;
- 2. individuals younger than 19 years old who expect to be claimed by one parent as a tax dependent and are living with both natural, adopted or stepparents, but whose natural, adopted, or stepparents do not expect to file a joint tax return;
- 3. individuals younger than 19 years old who expect to be claimed as a tax dependent by a noncustodial parent. For the purpose of determining custody, MassHealth uses a court order or binding separation, divorce, or custody agreement establishing physical custody controls or, if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

(3) Individuals Who Do Not File a Federal Tax Return and Are Not Claimed as a Tax Dependent on a Federal Tax Return. For an individual who does not expect to file a federal tax return and who does not expect to be claimed as a tax dependent on a federal tax return or when any of the exceptions described at 130 CMR 506.002(B)(2)(b)1., 2., or 3. apply, the household consists of

- (a) the individual;

- (b) the individual's spouse if living with them;
- (c) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them;
- (d) for individuals younger than 19 years old, the individual's natural, adoptive, or stepparents and natural, adoptive, or stepsiblings younger than 19 years old if living with them; and
- (e) if any individual described in 130 CMR 506.002(B)(3)(a) through (d) is pregnant, the number of expected children.

(C) MassHealth Disabled Adult Household. The household consists of

- (1) the individual;
- (2) the individual's spouse if living with them;
- (3) the individual's natural, adopted, and stepchildren younger than 19 years old if living with them; and
- (4) if any individual described in 130 CMR 506.002(C)(1), (2), or (3) is pregnant, the number of expected children.

130 CMR 506.002.

506.003: Countable Household Income

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).

(A) Earned Income.

- (1) Earned income is the total amount of taxable compensation received for work or services performed less pretax deductions. Earned income may include wages, salaries, tips, commissions, and bonuses.
- (2) Earned taxable income for the self-employed is the total amount of taxable annual income from self-employment after deducting annual business expenses listed or allowable on a U.S. Individual Tax Return. Self-employment income may be a profit or a loss.
- (3) Earned income from S-Corporations or Partnerships is the total amount of taxable annual profit (or loss) after deducting business expenses listed or allowable on a U.S. Individual Tax Return.
- (4) Seasonal income or other reasonably predictable future income is taxable income derived from an income source that may fluctuate during the year. Annual gross taxable income is divided by 12 to obtain a monthly taxable gross income with the following exception: if the applicant or member has a disabling illness or accident during or after the seasonal employment or other reasonably predictable future income period that prevents the person's continued or future employment, only current taxable income will be considered in the eligibility determination.

(B) Unearned Income.

(1) Unearned income is the total amount of taxable income that does not directly result from the individual's own labor after allowable deductions on the U.S Individual Tax Return.

(2) Unearned income may include, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, certain trusts, interest and dividend income, state or local tax refund for a tax you deducted in the previous year, and gross gambling income.

(C) Rental Income. Rental income is the total amount of taxable income less any deductions listed or allowable on an applicant's or member's U.S. Individual Tax Return.

(D) Deductions. Under federal law, the following deductions are allowed when calculating MAGI countable income. Changes to federal law may impact the availability of these deductions:

- (1) educator expenses;
- (2) reservist/performance artist/fee-based government official expenses;
- (3) health savings account;
- (4) moving expenses, for the amount and populations allowed under federal law;
- (5) one-half self-employment tax;
- (6) self-employment retirement account;
- (7) penalty on early withdrawal of savings;
- (8) alimony paid to a former spouse for individuals with alimony agreements finalized on or before December 31, 2018. Alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible;
- (9) individual retirement account (IRA);
- (10) student loan interest;
- (11) scholarships, awards, or fellowships used solely for educational purposes; and
- (12) other deductions described in the Tax Cut and Jobs Act of 2017, Public Law 115-97 for as long as those deductions are in effect under federal law.

130 CMR 506.003.

506.007: Calculation of Financial Eligibility

The rules at 130 CMR 506.003 and 506.004 describing countable income and noncountable income apply to both MassHealth MAGI households and MassHealth Disabled Adult households.

(A) Financial eligibility for coverage types that are determined using the MassHealth MAGI household rules and the MassHealth Disabled Adult household rules is determined by comparing the sum of all countable income less deductions for the individual's household as described at 130 CMR 506.002 with the applicable income standard for the specific coverage type.

- (1) The MassHealth agency will construct a household as described in 130 CMR 506.002 for

each individual who is applying for or renewing coverage. Different households may exist within a single family, depending on the family members' familial and tax relationships to each other.

(2) Once the individual's household is established, financial eligibility is determined by using the total of all countable monthly income for each person in that individual's MassHealth MAGI or Disabled Adult household. Income of all the household members forms the basis for establishing an individual's eligibility.

(a) A household's countable income is the sum of the MAGI-based income of every individual included in the individual's household with the exception of children and tax dependents who are not expected to be required to file a return as described in 42 CFR 435.603 and 130 CMR 506.004(M).

(b) Countable 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).

(c) In determining monthly income, the MassHealth agency multiplies average weekly income by 4.333.

(3) 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.

(B) The financial eligibility standards for each coverage type may be found in 130 CMR 505.000: *Health Care Reform: MassHealth: Coverage Types*.

(C) The monthly federal-poverty-level income standards are determined according to annual standards published in the *Federal Register* using the following formula. The MassHealth agency adjusts these standards annually.

(1) Multiply the annual 100% figure posted in the *Federal Register* by the applicable federal poverty level income standard.

(2) Round these annual figures up to the nearest hundredth.

(3) Divide by 12 to arrive at the monthly income standards.

(D) Safe Harbor Rule. The MassHealth agency will provide a safe harbor for individuals whose household income determined through MassHealth MAGI income rules results in financial ineligibility for MassHealth but whose household income determined through Health Connector income rules as described at 26 CFR 1.36B-1(e) is below 100% of the FPL. In such case, the individual's financial eligibility will be determined in accordance with Health Connector income rules.

(1) MassHealth uses current monthly income and the Health Connector uses projected annual income amounts.

(2) MassHealth MAGI household uses exceptions to tax household rules and the Health Connector uses the pure tax filing household.

(E) MAGI Protection for Individuals Receiving MassHealth Coverage on December 31, 2013. Notwithstanding 130 CMR 506.007(A) through (D), in the case of determining ongoing eligibility for individuals determined eligible for MassHealth coverage to begin on or before December 31, 2013, application of the MassHealth MAGI Household Income Calculation methodologies as set forth in 130 CMR 506.007 will not be applied until March 31, 2014, or the next regularly scheduled annual renewal of eligibility for such individual under 130 CMR 502.007: *Continuing Eligibility*, whichever is later, if the application of such methodologies would result in a downgrade of benefits.

130 CMR 506.007.

As a “qualified noncitizen,” the Appellant “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*.” 130 CMR 504.006(A). In determining household composition under MAGI, when a member is pregnant, the expected child (or number of expected children), is considered part of the household. 130 CMR 506.002(B)(1)(d); (B)(2)(a)5. Accordingly, the Appellant has a household size of four, consisting of the Appellant, her husband, their child, and their expected child. 130 CMR 506.002(B)(1)(d).

Although the appellant testified that her spouse’s income is approximately \$60,000/annually before taxes, in the absence of any documentary evidence to support this, I instead credit MassHealth’s testimony that the household’s monthly income is \$6,371.90. In 2024, 100% of the federal poverty level for a household of four is a monthly income of \$2,600.¹ To determine financial eligibility, 5% of \$2,600 is subtracted from the household’s monthly income, resulting in a total of \$6,241.90 (\$6,371.90-130=\$6,241.90). 130 CMR 506.007(A)(3). Accordingly, the Appellant’s household income is 240% of the federal poverty level. The Appellant is not eligible for MassHealth Standard as a pregnant person, because her income exceeds 200% of the federal poverty level. 130 CMR 505.002(D)(1)(a).

Regarding the Appellant’s eligibility for MassHealth Family Assistance, the Appellant is an adult between the ages of 21-64. No testimony or evidence was provided to suggest that the Appellant is HIV-positive or receives Emergency Aid to the Elderly, Disabled, or Children (EAEDC). The only other category of adult eligible for MassHealth Family Assistance, are those adults who are “Nonqualified PRUCOLS” or nonqualified persons residing under color of law, under 130 CMR 505.005(D). However, 130 CMR 505.005(J) provides that for “people who are pregnant, MassHealth will provide postpartum care for 12 months following the termination of a pregnancy plus an additional period extending to the end of the month in which the 12-month period ends.” MassHealth did not dispute the Appellant’s pregnancy and so should not have ended her Family Assistance coverage until “12 months following the termination of a pregnancy plus an additional

¹ In 2025, 100% of the federal poverty level for a household of four is \$2,680. Subtracting 5%, results in a total of \$6,237.90/month, which is 232.76% of the federal poverty level. <https://www.mass.gov/doc/2025-masshealth-income-standards-and-federal-poverty-guidelines-0/download>.

period extending to the end of the month in which the 12-month period ends,” in accordance with 130 CMR 505.005(J). Because MassHealth terminated her Family Assistance coverage during the Appellant’s pregnancy, the appeal is approved.

Order for MassHealth

Rescind the November 27, 2024 termination notice and continue the Appellant’s Family Assistance Coverage until “12 months following the termination of a pregnancy plus an additional period extending to the end of the month in which the 12-month period ends,” in accordance with 130 CMR 505.005(J).

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