

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500830
Decision Date:	02/14/2025	Hearing Date:	02/13/2025
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Jacob Sommer, Charlestown MassHealth
Enrollment Center



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Community Eligibility – under 65; Immigration Status
Decision Date:	02/14/2025	Hearing Date:	02/13/2025
MassHealth's Rep.:	Jacob Sommer	Appellant's Rep.:	██████
Hearing Location:	Charlestown MassHealth Enrollment Center - Room 1 (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 January 8, 2025, MassHealth approved the appellant for MassHealth Family Assistance benefits, downgrading him from MassHealth Standard. *See* 130 CMR 504.003 and Exhibit 1. The appellant filed this appeal in a timely manner on January 10, 2025. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging agency action regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits from MassHealth Standard to MassHealth Family Assistance.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant is not eligible for

MassHealth Standard by placing him on MassHealth Family Assistance.

Summary of Evidence

The appellant is an adult under the age of 65 with a verified disability who resides in a household of one and has a gross monthly income equal to 0% of the federal poverty level. MassHealth was represented at hearing by a worker from the Charlestown MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and evidence provided at hearing:

Prior to the notice at issue, the appellant was active on MassHealth Standard. He was deemed eligible as a disabled person in August of 2024, when his disability was verified and he was mistakenly logged as a naturalized United States citizen in the MassHealth computer system¹. MassHealth corrected its error on January 8, 2025, when the appellant verified his immigration status telephonically with MassHealth customer service. MassHealth verified that the appellant had been a legal permanent resident of the United States since [REDACTED]. On January 8, 2025, MassHealth downgraded the appellant's benefits to MassHealth Family Assistance due to his income, disability, and immigration status, and issued the notice on appeal. The MassHealth representative testified that all the documentation submitted by the appellant shows that he is a legal entrant to the United States but not yet present for five years; once he has been present in the United States for five years, the appellant will be able to access additional services. The MassHealth representative stated that he knows that the appellant is seeking PT-1 coverage, which is not covered by MassHealth Family Assistance benefits. Unfortunately, these are the regulations and the best that MassHealth can offer to the appellant at this point is MassHealth Family Assistance. Testimony. Once the appellant "hits the 5-year bar or becomes a U.S. citizen sooner, the appellant will be eligible for MassHealth Standard." Testimony.

The appellant expressed concern that without MassHealth Standard coverage, he would be unable to visit his providers and receive medical treatment. He cannot work and cannot afford the cost of traveling to his providers. All of his providers are in [REDACTED] he does not have a driver's license, and he does not have access to a vehicle. He has missed several appointments since he was downgraded from MassHealth Standard to MassHealth Family Assistance. He stated that he is disabled due to suffering through two wars in [REDACTED] and that he suffers from PTSD and cannot take public transportation. Testimony. The appellant stated that he is a legal immigrant and he waited patiently for thirteen years for his visa. He does not understand why he is not eligible for MassHealth Standard simply due to his immigration status. He did not understand why his disability did not make him eligible for more services. The MassHealth representative stated in response that disability is only one factor that MassHealth uses to determine MassHealth

¹ The MassHealth representative emphasized that all errors in this case relating to the appellant's immigration status are the fault of MassHealth; at no time did the appellant represent himself as a U.S. citizen to MassHealth. Testimony of MassHealth representative.

eligibility. In the appellant's case, his verified disability makes him eligible for MassHealth Family Assistance; without a verified disability the appellant would only be eligible for MassHealth Limited. Testimony.

Findings of Fact

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

1. The appellant is a disabled adult under the age of 65 who is currently active on MassHealth Family Assistance. Exhibit 1, Exhibit 4, Testimony.
2. The appellant was previously approved for MassHealth Standard due to an error in the MassHealth computer system listing the appellant as a naturalized United States citizen in August 2024. Testimony, Exhibit 4.
3. On January 8, 2025, the appellant verified his immigration status with MassHealth, MassHealth updated the appellant's account and downgraded his benefits from MassHealth Standard to MassHealth Family Assistance. Testimony.
4. The appellant has been a legal permanent resident of the United States since [REDACTED] Testimony.
5. The appellant filed a timely request for fair hearing on January 10, 2025. Exhibit 2.

Analysis and Conclusions of Law

Certain noncitizens may qualify for MassHealth benefits, depending on their legal status. The MassHealth regulations at 130 CMR 504.003 detail the circumstances in which these applicants may receive benefits. These regulations are divided into four different categories: Lawfully Present Immigrants (504.003(A)), Protected Noncitizens (504.003(B)), Nonqualified Persons Residing under Color of Law (504.003(C)), and Other Noncitizens (504.003(D)). Within the category of Lawful Present Immigrant, there exist three separate categories: Qualified Noncitizen (504.003(A)(1)), Qualified Noncitizens Barred (504.003(A)(2)), and Qualified Individuals Lawfully Present (504.003(A)(3)). As the appellant argues that he should be eligible for MassHealth Standard, at issue is whether he is a qualified noncitizen or protected noncitizen who could receive MassHealth under any coverage type, or a qualified noncitizen barred or nonqualified individual lawfully present. *See generally* 130 CMR 504.006.

Qualified noncitizens fall into two categories; the first category is considered "qualified regardless of when they entered the U.S. or how long they had a qualified status." 130 CMR 504.003(A)(1)(a). An entire list of such persons can be found at 504.00(A)(1)(a)(1)-(12) and include asylees, refugees,

and victims of human trafficking. The second category includes individuals who have been admitted for legal permanent residence, but requires that such people have either possessed such status of five or more years, have been in the U.S. since 1996, or also fall into the first category of Qualified Noncitizen. *See* 130 CMR 504.003(A)(1)(b). An individual who is a permanent resident but has not possessed the status for at least five years is considered a Qualified Noncitizen Barred under 130 CMR 504.003(A)(2).

Citizens, qualified noncitizens, and protected noncitizens “may receive MassHealth under any coverage types for which they are [financially] eligible.” 130 CMR 504.006(A). Qualified Noncitizens Barred may receive the following benefits:

- (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).

130 CMR 504.006(B) (emphasis added)

Although the appellant is a legal permanent resident of the United States, he and MassHealth agree that he has only possessed that status since 2024, which is less than the five years required for him to be considered a qualified noncitizen. As such, he is a qualified noncitizen barred who is not pregnant and is over the age of 19, meaning that he does not qualify for MassHealth Standard. As an individual with a confirmed disability, the appellant was correctly placed on MassHealth Family Assistance. Therefore, I find no error by MassHealth in issuing the January 8, 2025 notice.

For the foregoing reasons, the appeal is hereby DENIED.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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

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