

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Numbers:</b>	2505319, 2505317
<b>Decision Date:</b>	6/13/2025	<b>Hearing Date:</b>	05/05/2025
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Katelyn Costello, Quincy 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Eligibility-Under 65-Income/Immigration Status
<b>Decision Date:</b>	6/13/2025	<b>Hearing Date:</b>	05/05/2025
<b>MassHealth's Rep.:</b>	Katelyn Costello	<b>Appellants Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	Yes

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through notices dated March 18, 2025, MassHealth determined that Appellants are not MassHealth eligible due to income that exceeds program limits and notified Appellants that Health Safety Net would terminate on April 1, 2025 (130 CMR 505.001, 506.007 and Exhibit 1). Appellants filed appeals in a timely manner on April 1, 2025, and have been receiving aid pending protection (130 CMR 610.015(B), 610.036 and Exhibit 2). Appellants appeared together telephonically, and the hearings were consolidated (130 CMR 610.073). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that Appellants are not MassHealth eligible due to income that exceeds program limits and notified Appellants that Health Safety Net would terminate on April 1, 2025.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.001, 506.007 in

determining that Appellants are not MassHealth eligible due to income that exceeds program limits.

## Summary of Evidence

The MassHealth representative testified that Appellants are a married couple between 21 and 65 years of age. Separate notices issued to Appellants on March 18, 2025, informing Appellant husband and wife, neither of whom is disabled, that income exceeded program guidelines for MassHealth. MassHealth records show that Appellants were a household size of 4, with income equating to 354.60% of the federal poverty level, resulting in eligibility for partial Health Safety Net. Appellants reported a change in household size to 3, and income now equates to 147.18% of the federal poverty level for a household size of 3 including a minor child.<sup>1</sup> Appellants' daughter and her income is no longer included in the household. As a result, Appellants are now eligible for full Health Safety Net without a deductible effective April 18, 2025. MassHealth added that the aid pending protection place by the Board of Hearings prevented the downgrade to Health Safety Net partial with a deductible. However, Appellants are not MassHealth eligible due to both immigration status and income that exceeds limits for MassHealth Limited. MassHealth testified that Appellants immigration status is undocumented. Appellant's projected household income is \$40,556.88. Appellant husband is employed with \$780 weekly earned income, which is \$3,379.74 monthly. MassHealth verified that Appellants received Limited coverage in 2021, when documented income equated to 112% of the federal poverty level. Limited coverage ended on August 27, 2024. Appellants' daughters' income has been removed from the household, but household income still exceeds 133% of the federal poverty level for a household of 3, and Appellants are not eligible for Limited coverage.

Appellants verified a household size of 3 and income of \$780 per week, and no other sources of household income. Appellants testified that their daughter moved from the household and is no longer claimed as a tax dependent. Appellants stated that they do not have immigration documentation to submit to MassHealth because their visa applications were denied 15 years ago and are currently being processed. Appellants stated that they were eligible for MassHealth Limited in the past and would like to have that coverage reinstated.

## Findings of Fact

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

1. Appellants are a married couple, and both are between 21 and 65 years of age.

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<sup>1</sup> The March 18, 2025 notices determine MassHealth eligibility only for Appellant husband and Appellant wife, not the minor child.

2. Neither Appellant husband nor Appellant wife has been determined disabled, nor was a pregnancy reported.
3. Appellants were a household size of 4, with income equating to 354.60% of the federal poverty level, resulting in eligibility for partial Health Safety Net.
4. Appellants reported a change in household size to 3 including a minor child, and income now equates to 147.18% of the federal poverty level for a household size of 3.
5. Appellants' daughter is no longer part of the household and is no longer claimed by Appellants as a tax dependent.
6. Appellants were determined eligible for full Health Safety Net effective April 18, 2025.
7. Appellant husband is employed with \$780 weekly earned income which is \$3,379.74 monthly.
8. Appellants' immigration status is undocumented.
9. Appellants received Limited coverage in 2021, when documented income equated to 112% of the federal poverty level. Limited coverage ended on August 27, 2024.
10. 100 % of the federal poverty level for a household of 3 is \$2,221.
11. 133% of the federal poverty level for a household of 3 is \$2,954.

## Analysis and Conclusions of Law

MassHealth coverage types are based on an individual's circumstances and finances. To be eligible for MassHealth, an applicant must meet categorical eligibility criteria and have income below a certain financial threshold. To be eligible for MassHealth Standard, CarePlus, or CommonHealth, an applicant must generally be "a citizen as described in 130 CMR 504.002: *U.S. Citizens* or a qualified noncitizen as described in 130 CMR 504.003(A)(1): *Qualified Noncitizens* ... ." (130 CMR 505.002(E)(1)(c); 505.004(B)(4), (C)(4); 505.008(A)(2).) "Former Foster-care Individuals" and "People who are Pregnant" are the only two MassHealth Standard subcategories available to individuals who are not either citizens or Qualified Noncitizens. See 130 CMR 505.002(D)(1)(b); 505.002(H)(1)(b), (H)(2)).

(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 § 208 of the INA;
2. Refugees admitted under § 207 of the INA;
3. persons whose deportation has been withheld under § 243(h) or 241(b)(3) of the INA, as provided by § 5562 of the federal Balanced Budget Act of 1997;
4. veterans, their spouses, and their children:

...

5. Conditional Entrants under § 203(a)(7) of the INA in effect before April 1, 1980;
6. persons who entered as Cuban/Haitian entrants under § 501(e) of the Refugee Education Assistance Act of 1980;
7. Native Americans with at least 50% American Indian blood who were born in Canada pursuant to § 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 § 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 § 101(a)(27) of the Immigration and Nationality Act, pursuant to § 1244 of Public Law 110-181 or § 525 of Public Law 110-161;
11. Afghan Special Immigrants granted special immigrant status under § 101(a)(27) of the Immigration and Nationality Act, pursuant to § 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.

...

(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, ...; or

c. they also have or had a status listed in 130 CMR 504.003(A)(1)(a).

(130 CMR 504.003(A)(1))

Appellants are not U.S. citizens or legal permanent residents. Appellants have not established an immigration status that equals Qualified Noncitizen under 130 CMR 504.003(A), nor is there evidence that they entered the country prior to 1996. Appellants' immigration status is not otherwise described under 130 CMR 504.003(A)(2), (A)(3) or 130 CMR 504.003(B) or (C).<sup>2</sup> Here,

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<sup>2</sup> 130 CMR 504.003(A)(2): 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.

130 CMR 504.003(A)(3) Nonqualified Individuals Lawfully Present. Nonqualified individuals lawfully present are not defined as qualified under PRWORA, 8 U.S.C. 1641, but are lawfully present. Nonqualified individuals lawfully present are as follows:

(a) are in a valid nonimmigrant status as otherwise defined in 8 U.S.C. 1101(a)(15) or otherwise under immigration laws (as defined in 8 U.S.C. 1101(a)(17));

(b) are paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than one year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;

(c) belong to one of the following classes:

1. granted Temporary Resident Status in accordance with 8 U.S.C. 1160 or 1255a, respectively;

2. granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a, and individuals with pending applications for TPS who have been granted employment authorization;

3. granted employment authorization under 8 CFR 274a.12(c);

4. Family Unity beneficiaries in accordance with section 301 of Public Law 101-649;

5. under Deferred Enforced Departure (DED) in accordance with a decision made

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- by the President;
  - 6. granted Deferred Action status, except for applicants or individuals granted status under Department of Homeland Security (DHS) Deferred Action for Childhood Arrivals Process (DACA);
  - 7. granted an administrative stay of removal under 8 CFR part 241; or
  - 8. beneficiaries of approved visa petitions who have pending applications for adjustment of status;
  - (d) have a pending application 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:
    - 1. have been granted employment authorization; or
    - 2. are younger than 14 years old and have had an application pending for at least 180 days;
  - (e) have been granted withholding of removal under the Convention Against Torture Treaty; or
  - (f) is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J).

130 CMR 504.003(B): Protected Noncitizens. Noncitizens who are not qualified noncitizens as described in 130 CMR 504.003(A)(1) but who are qualified noncitizens barred as described in 130 CMR 504.003(A)(2); nonqualified individuals lawfully present as described in 130 CMR 504.003(A)(3); nonqualified persons residing under color of law (PRUCOLs) as described in 130 CMR 504.003(C); or other noncitizens as described in 130 CMR 504.003(D) and who were receiving medical assistance or CommonHealth on June 30, 1997, are considered protected noncitizens and may continue to receive MassHealth regardless of immigration status, if they are otherwise eligible. This status continues until a determination of ineligibility due to failure to meet categorical or financial eligibility requirements has been made.

130 CMR 504.003(C): (C) Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs). Certain noncitizens who are not described in 130 CMR 504.003(A) or (B) may be permanently living in the United States under color of law. The applicable coverage types for nonqualified PRUCOLs are listed at 130 CMR 504.006. If not otherwise described in 504.003(A) or (B) 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

Appellants' have not provided to MassHealth documentation verifying their immigration status. Noncitizens whose status is not described in 130 CMR 504.003(A) through (C), are considered other noncitizens. 130 CMR 504.003(D).

Pursuant to 130 CMR 504.006(D), other noncitizens 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)*.

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.<sup>3,4</sup> Appellants did not testify to or document any of the

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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.)

<sup>3</sup> See 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). 130 CMR 506.003(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.

See also 130 CMR 506.004: Because of state or federal law the following types of income are noncountable in the determination of eligibility for individuals described at 130 CMR 506.002. Changes to state or federal law may affect whether the following remains noncountable: (A) TAFDC, EAEDC, or SSI income; (B) federal veteran benefits that are not taxable in accordance with IRS rules; (C) income-in-kind; (D) roomer and boarder income derived from persons residing in the applicant's or member's principal place of residence; (E) most workers' compensation income; (F) pretax contributions to salary reduction plans for payment of dependent care, transportation, and certain health expenses within allowable limits; (G) child support received; (H) alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018. For individuals with alimony agreements finalized on or before December 31, 2018, alimony continues to be included in the income of the recipient for the duration of the agreement unless or until the agreement is modified; (I) taxable amounts received as a lump sum, except those sums that are counted in the month received; in the case of lottery or gambling winnings, those sums that are counted in the month or months required under federal law, including the Tax Cut and Jobs Act of 2017, Public Law 115-97; (J) money received for acting as a Parent Mentor as defined under section 1397 mm(f)(5) of chapter 42 of the United States Code of the Social



allowable expenses under 506.003(D); however, Appellants can update changes in income and applicable expenses to MassHealth at any time. Income of all household members forms the basis for establishing an individual's eligibility (130 CMR 506.007). In determining monthly income for MassHealth purposes, the MassHealth agency multiplies average weekly income by 4.333. Five percentage points of the current federal poverty level (FPL) is subtracted from the applicable household total countable income to determine the eligibility of the individual under the coverage type with the highest income standard (130 CMR 506.007(A)). Appellant husband reported \$780 weekly earned income, which averages to \$3,379.74 monthly, which places household MAGI income at 147.17% of the federal poverty level [ $\$3,379.74 - \$111.05^5 = \$3,268.69$ ] [ $\$3,268.69 \div \$2,221 \times 100 = 147.17\%$ ]. Appellants do not meet criteria for MassHealth Standard coverage because there is no reported pregnancy. Appellants do not meet requirements for MassHealth Limited described at 130 CMR 505.006(B)(4) as other noncitizens who are adults 21 through 64 years old because modified adjusted gross income of the MassHealth MAGI household exceeds 133% of the FPL for a household size of 3, \$2,954. The MassHealth determination is correct, and the appeal is DENIED.<sup>6</sup>

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Security Act; (K) income received by independent foster-care adolescents described at 130 CMR 505.002(H); *Eligibility Requirements for Former Foster-care Individuals*; (L) income from children and tax dependents who are not expected to be required to file a tax return under *Internal Revenue Code*, U.S.C. Title 26, § 6012(a)(1) for the taxable year in which eligibility for MassHealth is being determined, whether or not the children or the tax dependents files a tax return; and (M) any other income that is excluded by federal laws other than the Social Security Act.

<sup>4</sup> 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).

<sup>5</sup> 5% of \$2,221.

<sup>6</sup> See 130 CMR 505.006: MassHealth Limited

(B) Eligibility Requirements.

(1) MassHealth Limited is available to the following:

- (a) other noncitizens as described in 130 CMR 504.003(D): *Other Noncitizens* who are
  - 1. 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);
  - 2. 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;
  - 3. young adults 19 and 20 years old with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 150% of the FPL;
  - 4. 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**
  - 5. 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

Appellants can direct any questions about the Health Safety Net to 877-910-2100.

## **Order for MassHealth**

None, other than rescind aid pending.

## **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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

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