

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



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|-------------------------|-----------------|------------------------|-------------------|
| Appeal Decision: | Denied | Appeal Numbers: | 2514243 & 2514245 |
| Decision Date: | 12/09/2025 | Hearing Date: | 10/28/2025 |
| Hearing Officer: | Thomas J. Goode | | |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sherri Paiva, Taunton



*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

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|---------------------------|--------------|--------------------------|---|
| Appeal Decision: | Denied | Issue: | Community Eligibility-Under 65-Immigration Status |
| Decision Date: | 12/09/2025 | Hearing Date: | 10/28/2025 |
| MassHealth's Rep.: | Sherri Paiva | 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 notices dated September 16, 2025, MassHealth notified Appellant husband and wife they are not eligible for a MassHealth coverage type other than MassHealth Limited due to immigration status (130 CMR 504.003 and Exhibit 1). Appellants filed appeals in a timely manner on September 29, 2025 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032). Because the applicable state or federal law is common to both cases, and with Appellants' consent, the hearing officer combined the appeals (130 CMR 610.073).

Action Taken by MassHealth

MassHealth notified Appellant husband and wife that due to their immigration status, neither is eligible for a MassHealth coverage type other than MassHealth Limited.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 504.003, in determining that Appellants are not eligible for a coverage type other than MassHealth Limited.

Summary of Evidence

The MassHealth representative testified that Appellant husband and wife are a household size of 2 non-disabled adults both under 65 years of age. Appellant husband reported that he is a tax-filer. Appellant wife is not a tax-filer. Appellant's household has no reported income. The MassHealth representative stated that Appellants' immigration status is undocumented. MassHealth testified that Appellant husband and wife are both approved for MassHealth Limited with Health Safety Net.

Appellants testified that neither is a U.S. citizen, or legal permanent resident, and that their immigration status is undocumented. Appellants testified that they arrived in the United States as visitors [REDACTED] and after applying for an extension, stayed in the country without authorization. Appellants testified that they need a more comprehensive MassHealth coverage type due to dental problems, and an overnight hospital stay in September 2025.

Findings of Fact

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

1. Appellant husband and wife are a household size of 2 non-disabled adults both under 65 years of age.
2. Appellant husband reported that he is a tax-filer. Appellant wife is not a tax-filer.
3. Appellant's household has no reported income.
4. Appellants did not report a pregnancy.
5. Appellant husband and wife are both approved for MassHealth Limited with Health Safety Net.
6. Appellants' immigration status is undocumented.

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 either 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))

Pursuant to 130 CMR 504.003(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 § 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 been determined disabled by MassHealth or the Social Security Administration, and a pregnancy has not been reported. Appellants reported no income. Appellants have not established an immigration status that equals a Qualified Noncitizen under 130 CMR 504.003(A), nor did they enter the country prior to 1996. Appellant's immigration status is not otherwise described under 130 CMR 504.003(A)(2), (A)(3) or 130 CMR 504.003(B) or (C).¹ Appellants' immigration status is described at

¹ 130 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 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): 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:

130 CMR 504.003(D) Other Noncitizens. Noncitizens whose status is not described in 130 CMR 504.003(A) through (C), are considered other noncitizens.

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)*.

Appellants meet criteria for MassHealth Limited described at 130 CMR 505.006(B)(1)(a)(4) as non-disabled adults 21 through 64 years of age with modified adjusted gross income of the MassHealth MAGI household that is less than or equal to 133% of the FPL.² The MassHealth determination is correct, and the appeal is DENIED.

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- (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 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.)

² 505.006: MassHealth Limited

Appellants can direct any questions 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

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

(A) Overview. 130 CMR 505.006 contains the categorical requirements and financial standards for MassHealth Limited coverage for children, young adults, and adults 21 through 64 years old who are parents, caretakers, adults, and disabled adults.

(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.