



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
600 Washington Street
Boston, MA 02111
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MassHealth
Eligibility Letter 155
November 15, 2006

TO: MassHealth Staff
FROM: Beth Waldman, Medicaid Director *BW*
RE: **Revisions to Regulations about Citizenship and Identity**

MassHealth is revising the regulations about citizenship and identity.

In acceptable proof of identity for Level 4, the word "current" has been deleted in both 130 CMR 504.002(A)(4)(a) and 518.002(A)(4)(a). At 130 CMR 504.002(G)(4) and 518.002(G)(4), a revision has been made about the coverage types for aliens who do not provide verification of immigration status.

At 130 CMR 504.002(A)(5) and 518.002(A)(5), an opportunity for an extension of the time limit to obtain the required verifications has been added.

At 130 CMR 518.002, the section identifier, "(A) Citizen," was inadvertently omitted.

These regulations are effective July 2, 2006.

MANUAL UPKEEP

<u>Insert</u>	<u>Remove</u>	<u>Trans. By</u>
504.002 (3 of 7)	504.002 (3 of 3)	E.L. 153
504.002 (4 of 7)	504.002 (4 of 7)	E.L. 153
504.002 (5 of 7)	504.002 (5 of 7)	E.L. 153
504.002 (7 of 7)	504.002 (7 of 7)	E.L. 153
518.001	518.001	E.L. 153
518.002 (3 of 6)	518.002 (3 of 6)	E.L. 153
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(4) Acceptable Proof of Identity. Acceptable documentation includes the following, as well as any other verification allowed under federal law as determined by the MassHealth agency:

- (a) state driver's license bearing the individual's picture or other identifying information;
- (b) government-issued identity card bearing the individual's picture or other identifying information;
- (c) Certificate of Degree of Indian Blood or other U.S. tribal document bearing individual's picture or other identifying information;
- (d) U.S. military card or draft record;
- (e) school identity card with picture;
- (f) military dependent identity card;
- (g) U.S. Coast Guard Merchant Mariner card;
- (h) for children under age 16, the following may also be acceptable documentation of identity:
 - (i) nursery-school or day-care records with a picture; or
 - (ii) a parental or guardian affidavit attesting to the child's date and place of birth signed under penalty of perjury (cannot be used if affidavit was provided for citizenship).

(5) Reasonable Opportunity Extension. Applicants or members who need additional time to obtain verification of citizenship and identity may receive a 60-day extension. Requests for a reasonable opportunity extension must be made before the expiration of the verification time period.

(B) Qualified Alien. The following persons are considered qualified aliens for the purposes of MassHealth eligibility. Aliens described in 130 CMR 504.002(B)(1), (2), and (3) are considered qualified aliens if they either entered the United States on or after August 22, 1996, and five years have passed from the date they attained an immigration status described in 130 CMR 504.002(B)(1), (2), or (3); or they attained such status before August 22, 1996; or they have been continually present since before August 22, 1996. Date of entry into the United States is not considered for aliens qualified under 130 CMR 504.002(B)(4) through (12), even if they are also described in 130 CMR 504.002(B)(1), (2), and (3).

- (1) Persons admitted for legal permanent residence (LPR) under the Immigration and Nationality Act (INA).
- (2) Persons granted parole for at least one year under section 212(d)(5) of the INA.
- (3) Conditional entrants under section 203(a)(7) of the INA as in effect before April 1, 1980.
- (4) Persons granted asylum under section 208 of the INA.

- (5) Refugees admitted under section 207 of the INA.
- (6) 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.
- (7) (a) Veterans of the United States Armed Forces with an honorable discharge not related to their alien 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 alien status on active duty in the U.S. Armed Forces, other than active duty for training.
(e) The spouse, unremarried surviving spouse, or unmarried dependent children of the alien described in 130 CMR 504.002(B)(7)(a) through (d).
- (8) Aliens or their unmarried dependent children, as defined in federal law, who have been subjected to battery or extreme cruelty by their spouse, parent, sponsor, or a member of their family group, and who no longer live in the same family group as the batterer.
- (9) Persons who entered as Cuban/Haitian entrants under section 501(e) of the Refugee Education Assistance Act of 1980.
- (10) 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).
- (11) Amerasians admitted pursuant to section 584 of Public Law 100-202.
- (12) Victims of severe forms of trafficking.
- (C) Protected Alien. Aliens who are not qualified aliens, but who are aliens with special status or nonqualified aliens, as described at 130 CMR 504.002(D) and (E), and who were receiving medical assistance or CommonHealth on June 30, 1997, are considered protected aliens 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.
- (D) Alien with Special Status. Certain aliens who are not qualified aliens are afforded eligibility for MassHealth based on provisions of state law as described in 130 CMR 504.002(D). Aliens with special status, who qualify for MassHealth under 130 CMR 504.002(F)(2)(a), (b), or (c), must be under age 19. Certain long-term unemployed, disabled aliens with special status aged 19 through 64 are afforded eligibility for MassHealth under 130 CMR 505.007(E).
- (1) Persons permanently living in the United States under color of law (PRUCOLs) are described in 42 CFR 435.408(b)(3) through (7), (b)(10) through (14), and (b)(16), and include the following.
- (a) Aliens living in the United States in accordance with an indefinite stay of deportation.

(b) Aliens living in the United States in accordance with an indefinite voluntary departure.

(c) Aliens and their families who are covered by an approved immediate relative petition, who are entitled to voluntary departure, and whose departure the United States Department of Homeland Security (DHS) does not contemplate enforcing.

(d) Aliens who have filed applications for adjustment of status that the DHS has accepted as "properly filed," and whose departure the DHS does not contemplate enforcing.

(e) Aliens granted stays of deportation by court order, statute, or regulation, by individual determination of the DHS, or relevant DHS instructions, and whose departure the DHS does not contemplate enforcing.

(f) Aliens granted voluntary departure by the DHS or an Immigration Judge, and whose deportation the DHS does not contemplate enforcing.

(g) Aliens granted deferred action status.

(h) Aliens living under orders of supervision.

(i) Aliens who have entered and continuously lived in the United States since before January 1, 1972.

(j) Aliens granted suspension of deportation, and whose departure the DHS does not contemplate enforcing.

(k) Any other aliens living in the United States with the knowledge and consent of the DHS, and whose departure the DHS does not contemplate enforcing. (These include permanent nonimmigrants as established by Public Law 99-239, and persons granted Extended Voluntary Departure due to conditions in the alien's home country based on a determination by the Secretary of State.)

(2) Persons described below who are not otherwise defined as qualified aliens under 130 CMR 504.002(B) are the following.

(a) Persons admitted for legal permanent residence (LPR) under the INA.

(b) Persons granted parole for at least one year under section 212(d)(5) of the INA.

(c) Conditional entrants under section 203(a)(7) of the INA as in effect before April 1, 1980.

(E) Nonqualified Alien. Aliens whose status is not described in 130 CMR 504.002(B), (C), or (D) are considered nonqualified aliens.

Trans. by E.L. 155

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(G) Verification of Immigration Status.

- (1) A determination of eligibility is made as of the date the MBR and all required information, except verification of immigration status, is received by the MassHealth agency.
- (2) The MassHealth agency submits the names of qualified aliens to the DHS for confirmation of immigration status.
- (3) The MassHealth agency requests verification of immigration status subsequent to the eligibility determination from:
 - (a) qualified aliens who did not submit verification of their immigration status with the MBR, and for whom the DHS has been unable to confirm their status, as described at 130 CMR 504.002(G)(2); and
 - (b) aliens with special status who did not submit verification of their immigration status with the MBR.
- (4) Aliens who fail to submit verification of their immigration status, as described in 130 CMR 504.002(A), (B), and (G), within 60 days of the MassHealth agency's Request for Information will subsequently be:
 - (a) eligible only for MassHealth Limited if they meet the categorical requirements and financial standards of MassHealth Standard; or
 - (b) ineligible for any MassHealth coverage type if not otherwise eligible for MassHealth Standard.

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CITIZENSHIP AND IMMIGRATION

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518.001: Introduction

Persons applying for or receiving MassHealth must verify their citizenship and identity or immigration status.

518.002: Requirements

(A) Citizen.

(1) Definition of Citizen. A citizen of the United States is:

(a) an individual born in the United States or its territories, including Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands, except those born to a foreign diplomat, and who otherwise qualifies for U.S. citizenship under §301 et seq. of the Immigration and Nationality Act;

(b) an individual born of a parent who is a U.S. citizen or who otherwise qualifies for U.S. citizenship under §301 et seq. of the Immigration and Nationality Act;

(c) a naturalized citizen; or

(d) a national (both citizen and non-citizen national)

(i) Citizen National. A citizen national is an individual who otherwise qualifies as a U.S. citizen under §301 et seq. of the Immigration and Nationality Act.

(ii) Non-Citizen National. A non-citizen national is an individual who was born in one of the outlying possessions of the United States, including America Samoa and Swain's Island, to a parent who is a non-citizen national.

(2) Acceptable Proof of Citizenship and Identity (Level 1-Primary Verifications). The following documents may be accepted as proof of both citizenship and identity because each contains a photograph of the individual named in the document, and the citizenship and identity of the individual have been established by either the U.S. or a state government. Primary verifications satisfy both citizenship and identity requirements. Verification from 130 CMR 518.002(A)(2) must be submitted if available during the eligibility-determination process. Applicants and MassHealth members who were not U.S. citizens at birth must submit verification from 130 CMR 518.002(A)(2). Children born outside the United States and adopted by U.S. citizens may establish citizenship using the process established by the Child Citizenship Act of 2000. Citizens and nationals who receive SSI or Medicare or are entitled to Medicare do not need to submit verification. Acceptable verifications are:

(a) U.S. passport;

(b) Certificate of Naturalization (DHS form N-550 or N-570); or

(c) Certificate of U.S. Citizenship (DHS for N-560 or N-561).

(4) Acceptable Proof of Identity. Acceptable documentation includes the following, as well as any other verification allowed under federal law as determined by the MassHealth agency:

- (a) state driver's license bearing the individual's picture or other identifying information;
- (b) government-issued identity card bearing the individual's picture or other identifying information;
- (c) Certificate of Degree of Indian Blood or other U.S. tribal document bearing individual's picture or other identifying information;
- (d) U.S. military card or draft record;
- (e) school identity card with picture;
- (f) military dependent identity card;
- (g) U.S. Coast Guard Merchant Mariner card;
- (h) for children under age 16, the following may also be acceptable documentation of identity:
 - (i) nursery-school or day-care records with a picture; or
 - (ii) a parental or guardian affidavit attesting to the child's date and place of birth (cannot be used if affidavit was provided for citizenship).

(5) Reasonable Opportunity Extension. Applicants or members who need additional time to obtain verification of citizenship and identity may receive a 30-day extension. Requests for a reasonable opportunity extension must be made before the expiration of the verification time period.

(B) Qualified Alien. The following persons are considered qualified aliens for the purposes of MassHealth eligibility. Aliens described in 130 CMR 518.002(B)(1), (2), and (3) are considered qualified aliens if they either entered the United States on or after August 22, 1996, and five years have passed from the date they attained an immigration status described in 130 CMR 518.002(B)(1), (2), or (3); or they attained such status before August 22, 1996; or they have been continuously present since before August 22, 1996. Date of entry into the United States is not considered for aliens qualified under 130 CMR 518.002(B)(4) through (12), even if they are also described in 130 CMR 518.002(B)(1), (2), and (3).

- (1) Persons admitted for legal permanent residence (LPR) under the Immigration and Nationality Act (INA).
- (2) Persons granted parole for at least one year under section 212(d)(5) of the INA.
- (3) Conditional entrants under section 203(a)(7) of the INA as in effect before April 1, 1980.
- (4) Persons granted asylum under section 208 of the INA.
- (5) Refugees admitted under section 207 of the INA.

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- (6) 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.
- (7) (a) Veterans of the United States Armed Forces with an honorable discharge not related to their alien 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 alien status on active duty in the U.S. Armed Forces, other than active duty for training.
- (e) The spouse, unremarried surviving spouse, or unmarried dependent children of the alien described in 130 CMR 518.002(B)(7)(a) through (d).
- (8) Aliens or their unmarried dependent children, as defined in federal law, who have been subjected to battery or extreme cruelty by their spouse, parent, sponsor, or a member of their household, and who no longer live in the same household as the batterer.
- (9) Persons who entered as Cuban/Haitian entrants under section 501(e) of the Refugee Education Assistance Act of 1980.
- (10) 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).
- (11) Amerasians admitted pursuant to section 584 of Public Law 100-202.
- (12) Victims of severe forms of trafficking.

(C) Protected Alien. Aliens who are not qualified aliens but who are aliens with special status or nonqualified aliens, as described at 130 CMR 518.002(D) and (E), are considered protected aliens and may receive MassHealth regardless of immigration status, if they meet one of the following conditions and are otherwise eligible. This status continues until a determination of ineligibility due to failure to meet categorical or financial eligibility requirements has been made.

- (1) They were receiving medical assistance on June 30, 1997.
- (2) They had a long-term-care application pending on July 1, 1997.
- (3) They lived in a long-term-care facility on June 30, 1997, but had not yet applied for MassHealth.

(D) Alien with Special Status. Certain aliens who are not qualified aliens are afforded eligibility for MassHealth based on provisions of state law as described in 130 CMR 518.002(D).

- (1) Persons permanently living in the United States under color of law (PRUCOLs) are described in 42 CFR 435.408(b)(3) through (7), (b)(10) through (14), and (b)(16), and include the following.

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(F) Applicable Coverage Types.

(1) Citizens, qualified aliens, and protected aliens may receive MassHealth under any coverage type for which they are eligible.

(2) Aliens with special status may not receive coverage under MassHealth Standard, Buy-In, Senior Buy-In, or CommonHealth. However, they may be eligible for MassHealth Essential if they meet the eligibility requirements in 130 CMR 519.013 and MassHealth Limited if they meet the eligibility requirements of Essential at 130 CMR 519.013.

(3) Nonqualified aliens may only receive MassHealth Limited if they meet the eligibility requirements at 130 CMR 519.009.

(G) Verification of Immigration Status.

(1) A determination of eligibility is made as of the date the application and all required information, except verification of immigration status, is received by MassHealth.

(2) MassHealth submits the names of qualified aliens to the DHS for confirmation of immigration status.

(3) MassHealth requests verification of immigration status subsequent to the eligibility determination from:

(a) qualified aliens who did not submit verification of their immigration status with the application, and for whom the DHS has been unable to confirm their status as described at 130 CMR 518.002(G)(2); and

(b) aliens with special status who did not submit verification of their immigration status with the application.

(4) Aliens who fail to submit verification of their immigration status, as described in 130 CMR 518.002(A), (B), and (G), within 30 days of MassHealth's information request are subsequently:

(a) eligible only for MassHealth Limited if they meet the categorical requirements and financial standards of MassHealth Standard; or

(b) ineligible for any MassHealth coverage type if not otherwise eligible for MassHealth Standard.