



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
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Boston, MA 02111  
[www.mass.gov/masshealth](http://www.mass.gov/masshealth)



MassHealth  
Eligibility Letter 181  
August 1, 2008

**TO:** MassHealth Staff

**FROM:** Tom Dehner, Medicaid Director

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**RE: Revisions to Regulations about Qualified Aliens and Aliens with Special Status**

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Due to a change in federal law, MassHealth is revising the regulations defining qualified aliens to include certain Iraqi and Afghan Special Immigrants.

In addition, the list of aliens with special status is expanded to clarify that aliens who have been granted temporary protected status (TPS) and those who have applied for asylum are considered persons permanently living in the United States under color of law (PRUCOL).

These regulations are being issued as emergency regulations, effective retroactive to December 26, 2007.

#### MANUAL UPKEEP

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(j) for children under age 16, the following are also acceptable documentation of identity:

(i) school records, including report cards, or nursery-school or day-care records;

(ii) clinic, doctor, or hospital records; or

(iii) an affidavit, signed by a parent, guardian, or caretaker relative, attesting to the child's date and place of birth signed under penalty of perjury (cannot be used if affidavit was provided for citizenship); or

(k) for a disabled individual in a residential-care facility, an attestation of identity by the facility director or administrator when the individual does not have or cannot get any document listed in 130 CMR 504.002(A)(4)(a) through (j).

(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.

(6) Child Born to a MassHealth-Eligible Woman. Regardless of the mother's immigration status, a child born to a woman who is eligible for MassHealth on the date of the child's birth will be exempt from providing citizenship and identity verification for up to one year, as long as the mother remains eligible for MassHealth and the child remains a member of the mother's household. Documentation of the child's citizenship and identity will be required at the first eligibility redetermination.

(B) Qualified Aliens. 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), or (3). The following persons are considered qualified aliens for the purposes of MassHealth eligibility:

(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;

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- (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; or
- (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;

(13) 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, for a period not to exceed eight months; or

(14) 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, for a period not to exceed six months.

(C) Protected Aliens. 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) Aliens 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). The following are aliens with special status:

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(1) persons permanently living in the United States under color of law (PRUCOLs) as described in 42 CFR 435.408(b)(3) through (7), (b)(10) through (14), and (b)(16), which includes 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) aliens granted temporary protected status (TPS);
- (l) aliens who are asylum applicants; and
- (m) 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.); or

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(2) persons who are not otherwise defined as qualified aliens under 130 CMR 504.002(B), as follows:

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

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

(F) Applicable Coverage Types.

(1) Citizens, qualified aliens, and protected aliens may receive MassHealth under any coverage type if they meet the eligibility requirements described in 130 CMR 505.000 et seq.

(2) Aliens with special status may not receive coverage under MassHealth Standard. However, they may be eligible for the following:

- (a) MassHealth CommonHealth, if they are under age 19, disabled, and meet the categorical requirements and financial standards of MassHealth Standard as described at 130 CMR 505.002(F) or MassHealth CommonHealth if they are under age 19 and meet the categorical requirements and financial standards as described at 130 CMR 505.004;
- (b) MassHealth Family Assistance, if they are children under age 19, parents under age 19, or pregnant women under age 19 who meet the categorical requirements and financial standards of MassHealth Standard as described at 130 CMR 505.002(C), (D), or (E). If they meet these requirements and have health insurance, they are also eligible for MassHealth Limited;
- (c) MassHealth Family Assistance, if they are children under age 19 or persons under age 19 who are HIV positive, who meet the categorical requirements and financial standards of Family Assistance, as described at 130 CMR 505.005. The MassHealth agency does not pay the copayments, coinsurance, and deductibles described in 130 CMR 505.005(B)(6) for children who receive premium assistance;
- (d) MassHealth Limited, if they are adults who are parents, pregnant, or disabled and meet the categorical requirements and financial standards of MassHealth Standard, as described in 130 CMR 505.002(D), (E), and (F); or
- (e) MassHealth Essential with MassHealth Limited, if they are long-term unemployed, disabled adults aged 19 through 64, and meet the eligibility requirements of 130 CMR 505.007(E).

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(3) Nonqualified aliens may receive only MassHealth Limited if otherwise eligible for MassHealth Standard.

(4) Aliens with special status are not eligible for MassHealth Basic.

(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 the following:

(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 information request 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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(v) written affidavit when there is no other verification. An affidavit should be used only in rare circumstances. Two affidavits must be submitted, which can be combined on a joint affidavit. One of the two affidavits must be from an individual who is not related to the applicant or member. Each individual providing an affidavit must have personal knowledge of the event or events establishing the applicant's or member's claim of U.S citizenship or national status (for example, the date and place of the applicant's or member's birth in the United States, if applicable). The individuals providing the affidavits must also provide proof of both their own U.S. citizenship or national status and identity for the affidavit to be accepted. If the individuals making the affidavit also know why the documentary evidence of the applicant's or member's claim of U.S. citizenship or national status cannot be provided, this should be included in the affidavit. The applicant or member or other knowledgeable individual (guardian or representative) must provide a separate affidavit explaining why the evidence cannot be provided.

(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) cross-match with a federal or state government, public assistance, law enforcement, or correction agency data system;
- (i) three or more corroborating documents, such as marriage licenses, divorce decrees, high school diplomas, employer identification cards, or property deeds or titles. These corroborating documents can be used only if the individual submitted different Level 2 or Level 3 documentation for citizenship. These corroborating documents are not acceptable if a Level 4 document has been submitted;
- (j) for children under age 16, the following are also acceptable documentation of identity:
  - (i) school records, including report cards, or nursery-school or day-care records;
  - (ii) clinic, doctor, or hospital records; or

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(iii) an affidavit, signed by a parent, guardian, or caretaker relative, attesting to the child's date and place of birth signed under penalty of perjury (cannot be used if affidavit was provided for citizenship); or

(k) for a disabled individual in a residential-care facility, an attestation of identity by the facility director or administrator when the individual does not have or cannot get any document listed in 130 CMR 518.002(A)(4)(a) through (j).

(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.

(6) Child Born to a MassHealth-Eligible Woman. Regardless of the mother's immigration status, a child born to a woman who is eligible for MassHealth on the date of the child's birth will be exempt from providing citizenship and identity verification for up to one year, as long as the mother remains eligible for MassHealth and the child remains a member of the mother's household. Documentation of the child's citizenship and identity will be required at the first eligibility redetermination.

(B) Qualified Aliens. 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), or (3). The following persons are considered qualified aliens for the purposes of MassHealth eligibility:

- (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;



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(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; or

(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;

(13) 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, for a period not to exceed eight months; or

(14) 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, for a period not to exceed six months.

(C) Protected Aliens. 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) Aliens 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). The following are aliens with special status:

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(1) persons permanently living in the United States under color of law (PRUCOLs) as described in 42 CFR 435.408(b)(3) through (7), (b)(10) through (14), and (b)(16), which includes 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) aliens granted temporary protected status (TPS);
- (l) aliens who are asylum applicants; and
- (m) 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.); or

(2) persons who are not otherwise defined as qualified aliens under 130 CMR 518.002(B), as follows:

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

(E) Nonqualified Aliens. Aliens whose status is not described in 130 CMR 518.002(B), (C), or (D) are considered nonqualified aliens.

(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 receive only 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 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 the following:
  - (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 the MassHealth agency's information request 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.