

- n Medicare-covered services for individuals with Medicare and MassHealth Standard or the Senior Buy-In/QMB, and
- n emergency services.

See 130 C.M.R. §§ 450.130, 520.037.

209 Will MassHealth members ever have to pay back MassHealth benefits?

In most cases members do not have to pay back MassHealth benefits, but there are some special circumstances in which the member or his or her estate may have to repay MassHealth:

- n Members are required to assign to MassHealth their rights to third-party recovery in order to repay medical expenses from an insurance settlement or other recovery for a loss. See Part 14 for more information.
- n Members who were provided money for premium assistance may be required to repay money to which they were not entitled.
- n If a member chooses to receive benefits pending an appeal from the termination of assistance and loses the appeal, the member is liable to repay the benefits paid pending appeal, however, in practice the MassHealth agency has not sought recovery from the member. 130 C.M.R. § 610.036(D).
- n After the member's death, if he or she left an estate, the member's estate may be liable to repay MassHealth benefits received for services to someone age 55 or older. Estate recovery can be deferred until the death of a surviving spouse, minor child, or disabled adult child. There are also provisions to waive recovery on hardship grounds. 130 C.M.R. § 501.013.
- n Someone who received Medicaid fraudulently may be court-ordered to repay the benefits received.
- n An institutionalized individual of any age receiving nursing home level of care is also subject to estate recovery. *See* 130 C.M.R. §§ 515.011–515.012.

See 130 C.M.R. §§ 501.011–.013.

Part 18

Notice and Appeal Rights

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210 When should MassHealth members get a notice from the MassHealth agency?

The MassHealth agency must give notice of any action to deny, reduce, suspend, terminate, or restrict assistance. The notice must describe the action, the reason for the action, the regulation supporting the action and an explanation of the right to request a fair hearing. Except for actions on initial applications, the MassHealth agency generally must give notice at least 10 days before the intended action. The notice must contain an eligibility determination for each member of the family group who has applied for MassHealth. Notice is also required for any changes in coverage type, or premium assistance payments. When a request for prior authorization is denied or a level of care decision is made both the provider and the member should get notice of the decision and notice of appeal rights.

Because the MassHealth agency also makes determinations for Commonwealth Care and the Health Safety Net, notices are often confusing. Typically there is a separate heading dividing the portion of the notice pertaining to MassHealth programs, Commonwealth Care and the Safety Net.

The notice is important in informing an applicant or recipient what decision was made, the reason for the decision and how to appeal. The purpose of an appeal is to let an impartial person, the hearing officer, decide whether the decision made in an individual's case was correct.

130 C.M.R. §§ 502.008, 610.004.

211 What role does MassHealth play in Commonwealth Care appeals?

Individuals apply for Commonwealth Care with the same application form used for all MassHealth programs and for the Health Safety Net. The MassHealth agency makes the initial eligibility determination for all of these programs. Only if an applicant is determined ineligible for MassHealth will there be a decision about Commonwealth Care. The decisions made by the MassHealth agency about

Commonwealth Care can be appealed to the MassHealth Board of Hearings, and, of course, every Commonwealth Care decision also includes a decision denying MassHealth that can be appealed to the Board of Hearings.

However, the Commonwealth Care eligibility criteria related to access to insurance trigger a confusing two-step eligibility determination process. The MassHealth agency may provisionally deny Commonwealth Care based on access to insurance. However, the individual may then receive a notice from the Connector giving him or her an opportunity to claim an exception from the denial, or to appeal to the Connector in the event no exception is claimed. If an exception is claimed, a later notice will either award or deny benefits with notice of the right to appeal the denial to the Connector.

Given the predictable confusion about where to file an appeal, both the MassHealth Board of Hearings and the Connector provide that an appeal filed with either agency will be regarded as a timely appeal, and will be transferred to the appropriate agency.

Appeals from decisions of the Connector unrelated to eligibility follow its appeal process not that of the MassHealth Board of Hearings, See Part 10.

130 C.M.R. §§ 610.004, 610.012, 610.032; 956 C.M.R. §§ 3.14, 3.17; Connector Administrative Bulletin 01-07.

212 What types of actions are appealable?

The following kinds of MassHealth agency actions are grounds for appeal:

- n denial of an application or request for assistance;
- n failure to make a timely decision on an application or request for assistance;
- n any action to suspend, reduce, terminate, or restrict assistance;
- n decisions regarding the scope and amount of assistance (including level of care determinations);
- n imposition of any unauthorized condition of eligibility;

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- n a decision that the member is required to use managed care;
- n the denial of an out-of-area managed care provider;
- n involuntary disenrollment from a managed care provider;
- n any action by the Partnership, one of the Managed Care Organizations (MCOs), or Senior Care Options plans (SCO) to suspend, reduce, terminate, or restrict assistance provided the member has first exhausted the internal plan grievance process;
- n any discharge or transfer initiated by a nursing facility; or
- n the MassHealth agency's determination on behalf of the Connector as set forth in 956 C.M.R. § 3.17 (Commonwealth Care).

See 130 C.M.R. § 610.032 for a complete list of appealable actions.

213 When are decisions of a provider appealable?

The Board of Hearings rules say that no action by a provider is an appealable action with two exceptions: nursing home transfer and discharge actions, and adverse decisions by the Partnership or a MassHealth MCO or SCO. 130 C.M.R. § 610.004.

Ordinarily if a member has a dispute with a provider, the member's recourse is to consult a different provider not to file an appeal. However, in some cases where the member has no choice of provider and the provider's decision is based on its interpretation of a MassHealth rule rather than a medical judgment, an appeal may be appropriate. Consult a legal advocate in a situation like this. *See, e.g., Mansfield v. Commissioner*, 40 Mass. App. Ct. 1, 660 N.E.2d 684 (1996).

Where MassHealth makes a determination that a patient no longer requires a hospital level of care, both the provider and the patient have a right to notice and an opportunity to appeal. 130 C.M.R. §§ 415.417 (acute care hospitals), 435.416 (chronic care hospitals).

214 How does someone appeal?

To appeal, a MassHealth member, or someone authorized to act on his or her behalf, must ask for a hearing in writing and mail or fax the request to the MassHealth agency Board of Hearings (BOH) by the appeal deadline. The notice of decision generally has printed on the back of it a request for a fair hearing form that can be used to request an appeal. It is useful to include a copy of the notice being appealed along with the request for a hearing. The appeal should identify what action the MassHealth agency took, but need not describe why that action was incorrect.

Generally, the written request for a hearing must be *received* by the BOH within 30 days of receipt of the notice of action. The rules assume receipt of the notice three days after the date it was mailed unless a post mark or other evidence proves it took longer than that for someone to receive the notice. A member can also appeal from the MassHealth agency's failure to act. The MassHealth agency rules say that appeals from inaction or actions taken without notice must be filed within 120 days of the application or request not acted upon or the action taken. The Director of the Board of Hearings can waive this 120-day limitation.

The Board of Hearings receives a high volume of appeals and is strict about deadlines. When in doubt about whether or not to appeal, it is wiser to file the appeal and withdraw it later if need be than to miss a deadline.

130 C.M.R. §§ 610.015, 610.034.

215 Can benefits continue while waiting for the appeal to be heard?

Yes. This is a very important protection for current recipients, and advocates should be sure not to miss the deadline for aid pending appeal. When appealing the termination or reduction of assistance, benefits can be continued pending appeal or reinstated if the member appeals and requests continued benefits before the date of the intended action or within 10 days of the mailing of the notice of intended action, whichever is later. A member can get continued services pending

appeal after expiration of the prior authorization for a service that was authorized for a limited period of time only if the provider has submitted a new prior authorization request on time.

130 C.M.R. § 610.036.

216 How much advance notice will be given for a fair hearing?

The Board of Hearings sends at least 10 days' notice of the time and place of the hearing.

217 Where do fair hearings take place?

Fair hearings can take place at the office of the Board of Hearings in Boston, at Regional MEC offices or other locations accessible to the MassHealth member. If a member consents, a hearing can be conducted entirely by telephone.

218 Who will be present at the hearing?

One hearing officer representing the Board of Hearings will preside. One or more representatives of the MassHealth agency will represent MassHealth regarding the action it took that is under appeal. For denials of prior approval, the medical consultant who made the decision will ordinarily be present. Consultants will appear in person if the hearing is in Boston, but generally only participate by telephone outside of Boston. For managed care appeals a representative from the Partnership, MCO or SCO will be present. Occasionally, an attorney from the

MassHealth agency's general counsel's office may attend. If the member requested an interpreter, the BOH should arrange for an interpreter to be present. Members have the right to appear with a representative. Members also have the right to request that the Board of Hearings subpoena necessary witnesses. 130 C.M.R. § 610.052.

219 How does the appellant prepare for a hearing?

MassHealth members should try to find a legal aid advocate or other experienced advocate to assist with an appeal. The notice of decision is an important document in understanding why MassHealth took the action it did, and what the issues on appeal will be. In prior authorization cases the notice may refer to technical terms and codes that the agency should be asked to explain. Members and their advocates have the right to examine the case file before the hearing as well as all documents and records to be used by the MassHealth agency at the hearing. In eligibility cases, this may involve having someone from MassHealth review and print out copies of the computer file, in addition to a review of any paper file. The Customer Service Center also maintains a log of its contacts with members that can be obtained in preparation for a hearing. 130 C.M.R. § 610.050.

Obtain copies of all documents referred to in the notice of decision that may not be part of the case file such as the regulation on which the decision was based. Members and their advocates have the right to request that the Board of Hearings subpoena necessary witnesses and that they bring documents and other evidence in their possession with them to the hearing. 130 C.M.R. § 610.052. An appellant can arrange in advance for a witness who is not available to attend the hearing in person, such as the doctor, to testify by telephone. Ordinarily, the advocate should try to interview the consultant or agency employee who made the decision under appeal in order to fully understand the reason for the decision. Beyond the right to examine the case file, there is no formal process to enable an advocate to obtain additional information from the agency in advance of the hearing (discovery), but an advocate can pursue informal discovery, and in an appropriate case can try writing to the Board of Hearings to allow additional methods of discovery.

220 Is there a chance that the appeal can be resolved without a hearing?

Sometimes appeals can be resolved prior to the hearing based on informal discussion with staff at MassHealth or the submission of additional information that causes the agency to change its position. However, be sure that the terms of the agreement to resolve the case are clear before dismissing the appeal. Because a pending appeal may block the agency's computer systems from making certain changes, it may be necessary to dismiss the appeal before the agency can issue a new determination. The BOH should not unilaterally dismiss an appeal when the agency notifies it of an "adjustment" without the agreement of the appellant that the adjustment resolves the issues in dispute. 130 C.M.R. § 610.051.

221 What happens at the hearing?

At the hearing, the hearing officer will typically ask the agency representative to explain why the agency made its decision. Agency representatives often read a prepared statement. Documents will be marked and entered as exhibits. The appellant will then have an opportunity to explain why the agency's decision was incorrect. The member has the right to present evidence of all relevant facts and circumstances, and cross-examine adverse witnesses. The hearing officer will also ask questions of the witnesses. All evidence and testimony will be tape-recorded. 130 C.M.R. § 610.061. The appellant is not limited to the evidence that was already in the case file; he or she can submit new information. This kind of hearing is called "de novo." 130 C.M.R. § 610.071(A)(2). If an issue comes up at the hearing that takes the appellant by surprise, he or she can ask for a postponement or ask that the record be held open for a certain period of time in order to submit additional information.

222 How long will it take to get a decision?

The hearing officer must make a decision within 45 days of the hearing request if the issue under appeal was the denial of an application or failure to act on an application. For all other issues the hearing officer must make a final decision within 90 days of the request unless good cause exists to extend the time. Appeals from denial of prior authorization for an elective hospital admission may be expedited, and a decision may be issued within 14 days. The decision will be in writing, summarize the facts and arguments of the parties, and make findings of fact and conclusions of law.

130 C.M.R. §§ 510.015(D) (time frame), 610.083 (contents).

223 Do MassHealth members have to file a grievance with the Partnership, MCO, or SCO before requesting a fair hearing?

If appealing an action of the Partnership, MCO, or SCO, MassHealth rules require that the member first exhaust the internal grievance procedures which all Medicaid managed care organizations are required to have. Generally, the internal grievance will give the member and his or her provider an opportunity to talk by telephone and to submit medical records to the physician who initially approved the service reduction or denial and to the medical director or some other physician who was not involved in the original decision. The enrollment packet sent out by the MCO or SCO at the time of enrollment should describe the internal grievance process; someone must call the Partnership's toll-free number or consult its website to find out how to appeal its decision. Members should be able to have ongoing services continued during the grievance process. Members should also be able to have the grievance heard on an expedited basis in accordance with health care needs. If the grievance is not resolved to the member's satisfaction, he or she can request a fair hearing before the Board of Hearings. MassHealth members should seek the assistance of a legal advocate if denied services by the Partnership or an MCO or SCO. See Part 16, Service Delivery, for more information on managed care denials.

130 C.M.R. §§ 508.006, 610.032.

224 If a MassHealth member wins an appeal, can he or she get back the money spent on care?

Yes. If a MassHealth member wins an appeal, any MassHealth provider who delivered covered services to him or her can now bill MassHealth and receive payment. If services were incurred more than 90 days ago, the provider may need to submit evidence of the reversed decision along with its claim.

If the member incurred out of pocket expenses for prescription drugs or other covered services, he or she can be directly reimbursed by the MassHealth agency. Appellants should be sure to keep receipts pending appeal. A MassHealth member should be reimbursed for the amounts he or she actually had to pay even if the amount exceeds the MassHealth payment rate, and even if the provider does not participate in MassHealth.

The regulations also recognize the right to direct reimbursement of covered medical expenses whenever someone was denied MassHealth and the denial is later reversed with or without a fair hearing. This also applies to applicants for cash welfare who are initially denied SSI, TAFDC, or EAEDC and later succeed in having the denial of benefits reversed.

The Customer Service Center typically advises members who win back benefits to ask the provider to reimburse them for any out of pocket expenses and to rebill MassHealth. Sometimes this works. However, some providers are reluctant to do this and some providers may not be participating in MassHealth. It may be necessary for an advocate to contact the legal office to obtain direct reimbursement for a client in such cases. If a hearing officer reversed the denial, the appellant may also obtain further assistance from the Board of Hearings if MassHealth does not implement the hearing decision within 30 days.

130 C.M.R. §§ 507.002 (reimbursement for out of pocket medical expenses), 610.086 (implementation of fair hearing decisions).

225 What happens if a MassHealth member loses an appeal?

Members and their advocates have 30 days from receipt of the fair hearing decision to file a request for judicial review in the Superior Court. 130 C.M.R. § 610.092. Or, members can request a rehearing with the Director of the Office of Medicaid within 14 days of the date of the hearing decision (not the date of receipt). The filing of a request for rehearing suspends the hearing officer's decision until the rehearing request is acted on by the Medicaid Director. 130 C.M.R. § 610.091. If the request for rehearing is not granted, or if it is granted and the appeal is again denied, the member has 30 days from the decision denying the rehearing request, or the new decision after rehearing, to file for judicial review (file an appeal in state court). If the member was receiving benefits pending appeal, just filing a request for judicial review will not prevent benefits from ending.

130 C.M.R. §§ 610.091, 610.092; G.L. c. 30A, § 14; Superior Court Modified Standing Order 1-96: Processing and Hearing of Complaints for Judicial Review of Administrative Agency Proceedings. See MLRI, *ABCs of Filing a Complaint for Judicial Review of a MassHealth Fair Hearing Decision*, posted on www.masslegalservices.org.

Part 19

Health Programs Other than MassHealth

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226 Where can information on health programs be found?

For more information on health programs other than MassHealth, see Part 20 for a list of references and websites. The Division of Health Care Finance and Policy produces a catalogue of health programs that is still a useful reference tool but has not been updated since 2004: *Access to Health Care in Massachusetts: A Catalog of Health Care Programs for Uninsured and Underinsured Individuals*. It is available at www.mass.gov/dhcfp.

227 What is the Health Safety Net?

The Health Safety Net (HSN), formerly called the Uncompensated Care Pool or Free Care, relieves an eligible individual from medical debt to acute care hospitals for “critical access services” received there and to community health centers for their services. It is not a coverage program like MassHealth and does not provide a defined set of benefits. It provides funds to acute hospitals and health centers that treat the uninsured and underinsured. The Health Safety Net reimburses acute hospitals for their charges, but will not cover the costs of providers who bill separately from the hospital. Depending on the hospital, physicians, specialists, lab and x-ray technicians and other providers may not be employees of the hospital reimbursed from HSN, and therefore are not prevented from billing the HSN patient for their services.

Eligibility. The Health Safety Net is available to Massachusetts residents, regardless of age or immigration status who are determined to be “low income patients.” People who do not live in Massachusetts are not eligible for any services. (However, hospitals and health centers may be able to obtain HSN reimbursement for emergency bad debt incurred by out of state residents). Individuals with gross family income that does not exceed 200 percent of poverty may be eligible for “full” benefits from HSN. Individuals with gross family income over 200 percent but not over 400 percent of poverty may be eligible for “partial” benefits. With partial HSN the patient must pay a deductible before the HSN is available. There is also a medical hardship program for Massachusetts

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residents who are not otherwise eligible for HSN coverage of incurred expenses at hospitals and CHCs.

Starting in October 2007, individuals who are eligible for MassHealth Standard, CommonHealth, and Family Assistance direct coverage are no longer eligible for six months retroactive HSN. Individuals who are only eligible for MassHealth Limited, CMSP, HSP, or Family Assistance premium assistance, along with other low income patients, remain eligible for six months retroactive HSN.

With these restrictions on retroactive HSN, it is important that hospital patient file an application within 10 days of incurring hospital charges to avoid medical debt.

Individuals who are eligible for coverage in MassHealth Basic, Essential or Commonwealth Care only after they enroll in a managed care plan, are eligible for time-limited HSN from 10 days prior to application to 90 after application, and those who enroll in Commonwealth Care remain eligible for HSN until the effective date of coverage. Also, those in Commonwealth Care who do not otherwise have dental coverage, remain eligible for HSN for dental care.

At some point, individuals who have access to affordable insurance will be ineligible for HSN. The effective date of this restriction has been delayed several times and is currently scheduled for April 2009.

Also starting in October 2007, individuals who were terminated from MassHealth or Commonwealth Care for nonpayment of premiums are no longer eligible for HSN.

Application and determination of eligibility. Applications for HSN are included in the MBR and S-MBR, the common application form used for MassHealth programs and Commonwealth Care. The MassHealth agency determines eligibility for HSN in addition to the other programs. All acute hospitals and health centers use the online (Virtual Gateway) common intake form to apply for HSN. (A separate confidential application form is available for teens seeking confidential services and for domestic violence victims.) The Health Safety Net defines income and family group the same way MassHealth does, and requires applicants to comply with MassHealth verification requirements. The one exception to the MassHealth verification rules is that U.S. citizens do not have to verify citizenship and identity, and immigrants are not required to verify immigration status in order to obtain HSN.

Services. Acute outpatient hospital services are eligible for reimbursement from HSN only for the following services:

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- n all medically necessary services if there is no community health center (CHC) within five miles,
- n emergency or urgent care,
- n specialty care (including mammograms),
- n maternity care, or
- n complex care not available at a CHC.

In order for drugs to be covered by HSN, the hospital or health center must have an outpatient pharmacy and the prescription must be written by a clinician associated with the hospital or health center. Drug coverage in HSN is also now subject to the same prior authorization and other rules applicable to the MassHealth drug list, and the minimum MassHealth copays of \$1–\$2 for a generic and \$3 for a brand name drug apply.

Medical hardship. With new restrictions on eligibility for HSN, the criteria for HSN coverage for debts under the Medical Hardship program were liberalized. There is no longer an asset test. Hardship is based on the patient incurring medical expenses in the past 12 months that exceed a certain percentage of his or her annual income; this amount represents the patient's expected contribution to the costs of care. The percentage of income varies by income starting at 10 percent of income for those at 0 to 200 percent of poverty and going up to 40 percent of income for those over 600 percent of poverty. Medical expenses are not limited to services eligible for payment by HSN but include any potentially tax deductible medical expense. Expenses not eligible for reimbursement by HSN will be counted first toward the patient's contribution. Patients can apply only twice in a 12-month period and applications are filed on behalf of the patient by the hospital or health center. If DHCFP grants an application, HSN will only pay for HSN eligible services that have already been incurred and that were not counted as part of the patient's contribution. If a patient is currently a low income patient, payment of the patient's contribution to HSN providers will be deferred.

114.6 C.M.R. § 13.00 et seq. See also information on the HSN posted at the website of the Division of Health Care Finance and Policy, www.mass.gov/dhcfp.

For more information, call the HSN Helpline at 617-988-3222 or 877-910-2100.

228 What is the Children's Medical Security Plan?

The Children's Medical Security Plan (CMSP) provides primary and preventive care for all children who are uninsured and are not eligible for MassHealth (except for MassHealth Limited). There are no citizenship or immigration rules, but children must be Massachusetts residents. The CMSP is administered by the MassHealth agency and uses the MBR application form.

Premiums. No premiums are charged children in families with income under 200 percent of poverty; monthly premiums for children in families with income between 201 and 300 percent of poverty are \$7.80 per child up to a \$23.40 family maximum; with income between 301 and 400 percent of poverty, monthly premiums are \$33.14 per family; with income over 400 percent of poverty, monthly premiums are \$38.99 per child (SFY 2009). CMSP also charges copayments of \$2–8 depending on the service and the family income.

Services. The CMSP contracts with Unicare to administer benefits. The CMSP benefits are restricted; they include dental up to \$750, prescription drugs up to \$200, mental health and substance abuse up to 20 visits, durable medical equipment up to \$200 (or more for certain conditions) along with outpatient office visits and immunizations and certain other benefits. The CMSP does not include inpatient hospital care, however, families eligible for the CMSP with income at or under 200 percent of poverty are eligible for full Health Safety Net benefits at hospitals and community health centers, and families eligible for CMSP with income over 200 percent but under 400 percent of poverty are eligible for partial Health Safety Net benefits. Children ineligible for MassHealth based on their immigration status and with income not over 150 percent of poverty will receive CMSP plus MassHealth Limited for emergency services.

G.L. c. 118E, § 10F; 130 C.M.R. § 522.004. For more information, visit www.cmspkids.com.

229 What is the Healthy Start Program?

The Healthy Start Program (HSP) is administered by the MassHealth agency as part of its State Children's Health Insurance Title XXI program. Healthy Start covers prenatal care and 60-day postpartum care for pregnant women with gross family income at or under 200 percent of poverty for a family size that includes the fetus. There is no citizenship or immigration status requirement, but women must be Massachusetts residents. Healthy Start uses the MassHealth application form. Women will be eligible for Healthy Start plus MassHealth Limited to cover labor and delivery.

G.L. c. 118E, § 10E; 130 C.M.R. § 522.005. For more information, visit www.hspmoms.com.

230 What is the Medical Security Plan?

The Medical Security plan (MSP) subsidizes private insurance or provides direct coverage for individuals eligible to collect unemployment compensation under Massachusetts law. It is administered by Blue Cross/Blue Shield under a contract with the Division of Unemployment Assistance.

Eligibility. The MSP is only available to Massachusetts residents who become unemployed from a Massachusetts employer, receive unemployment insurance benefits and have annual family income under 400 percent of poverty. Annual family income is based on actual income in the past six months and projected income for the next six months. The DUA mails an application packet to all individuals filing a claim for unemployment insurance benefits.

Individuals who were on Commonwealth Care while employed, or who apply for CommonwealthCare after losing employment will be asked questions on the MBR or ERV intended to screen for potential MSP eligibility. Individuals will be denied Commonwealth Care if they are collecting unemployment benefits and otherwise appear to be eligible for MSP. If someone is denied who is not eligible for MSP, in order to re-establish eligibility for Commonwealth Care, he or she will either have to correct misinformation that went into the screening with the

MEC, e.g., that the employer was not a Massachusetts employer but a federal or out of state employer, or submit proof of the MSP denial to the same vendor the Connector uses to process exceptions.

Benefits. The MSP either pays part of the cost of continuing coverage under the health insurance offered by a former employer (COBRA) or other private coverage, or offers direct health coverage if COBRA/private coverage is not available or is so expensive it would be a hardship to pay. An unemployed person with family income under 200 percent of poverty automatically meets the hardship standard. For COBRA/private coverage, DUA currently pays for 80 percent of the actual premium paid up to a maximum of \$1080 per month for a family plan and \$440 per month for an individual plan (FY 2009). The direct care plan is the Blue Cross/Blue Shield Network Blue HMO plan; it has copayments such as \$15 for an office visit, but no deductibles and no premium charge. Premium assistance or direct coverage ends when an individual's unemployment insurance benefits end.

G.L. c. 151A, § 14G; 430 C.M.R. § 7.00 et seq. For more information call 800-908-8801 (MSP Customer Service) or go to www.mass.gov/dua.

231 What is the Prescription Advantage Program?

The Prescription Advantage program helps pay the costs of prescription drugs for seniors and people with disabilities and is administered by the Executive Office of Elder Affairs. When Medicare began offering a drug benefit through private drug plans in January 2006, the scope of the Prescription Advantage program changed. As a condition of Prescription Advantage eligibility, Medicare recipients now must enroll with a Medicare drug plan or have comparable coverage and low-income Medicare recipients must apply for “extra help” to make Medicare drug plans more affordable. Prescription Advantage will subsidize some of the remaining out of pocket costs for seniors and certain people with disabilities enrolled in Medicare drug plans, and will continue to provide its own pharmacy insurance plan for those not eligible for Medicare.

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Eligibility: Prescription Advantage is available to Massachusetts residents (without regard to U.S. citizenship or immigration status) who are not MassHealth or CommonHealth members and who are:

- n 65 years of age or older, eligible for Medicare, and have a gross annual household income that is less than 500 percent of poverty;
- n 65 years of age or older and not eligible for Medicare; or
- n under age 65, work no more than 40 hours per month, meet MassHealth's CommonHealth disability requirements, and have a gross annual income at or below 188 percent of poverty; and
- n if eligible for Medicare, enrolled in a Medicare drug plan or have drug coverage through another insurance plan that is as good as the Medicare drug plan, and if family income does not exceed 150 percent of poverty applied for "extra help" in paying for Medicare drug coverage.

Application and enrollment: Applications can be downloaded from the Elder Affairs website and submitted by mail. Health counselors are available to assist applicants through the SHINE program (800-AGE-INFO).

Benefits: The benefits of Prescription Advantage vary by income level and Medicare coverage; there are five levels of assistance. If enrollees have Medicare, Prescription Advantage provides supplemental coverage to reduce the costs of drug coverage. If enrollees are not eligible for Medicare, Prescription Advantage offers primary prescription drug coverage. Prescription Advantages helps people with Medicare drug coverage by subsidizing monthly premium, deductible and co-payments with the amount of the subsidy depending on the individual's level of assistance and available state funds. See Table 19 for assistance levels in 2009. For more information on benefits available for individuals at different income levels, see www.800ageinfo.com.

651 C.M.R. § 15.00. For more information, call 800-AGE-INFO.

232 What is the Massachusetts Home Care Program?

The Massachusetts Home Care Program, administered by the Executive Office of Elder Affairs, provides home care through 27 local Aging Services Access Points (ASAPs). Eligible individuals generally must be age 60 or over with a certain level of functional impairment, and one or more critical unmet needs. There are no U.S. citizenship or immigration status criteria. Gross annual income must not exceed \$24,837 for an individual, \$35,144 for a couple (2009). A range of home care services are available including homemakers, adult day health, personal care homemakers, home delivered meals, transportation, and adaptive housing services. There are copayments based on income. People with Alzheimer's disease are eligible regardless of age. Certain services such as protective services or emergency shelter may be provided without regard to income or copayments. Services are subject to appropriation and there may be waiting lists for some services.

651 C.M.R. § 3.00 et seq. For more information call 1-800-882-2003 or visit www.mass.gov/elders.

233 What health services are available to veterans and military families?

The Veteran's Administration (VA) provides a medical benefit plan for all enrolled veterans. All honorably discharged veterans who apply will be enrolled to the extent appropriations allow in accordance with a priority schedule.

Generally, veterans will receive preventive and primary health care at a VA health care facility. For more specialized treatment veterans may have a choice of locations. Veterans accepted for enrollment in the VA health care system will be eligible to receive necessary inpatient and outpatient services, including preventative and primary care. These include:

- n diagnostic and treatment services;

Part 19 n Health Programs Other than MassHealth

- n mental health, substance abuse, and home health;
- n respite and hospice care; and
- n drugs in conjunction with VA treatment.

For application information call a VA health care facility, the Health Benefits Service Center at 1-877-222-8387 or apply online at www.va.gov/elig. Additional veteran's medical benefits, and assistance with VA applications, are available through the city or town veteran's agent under G.L. c. 115.

TRICARE. Apart from the health services of the VA described above, the TRICARE (formerly called CHAMPUS) programs offer health plans to active duty military personnel and military retirees, and their dependants. Individuals eligible for TRICARE are not eligible for Commonwealth Care. For more information about TRICARE, call 877-874-2273 or visit www.healthnetfederalservice.com.

234 What health services are available to college students?

Students enrolled in at least 75 percent of the full-time curriculum of a college or university in Massachusetts are required to participate in a qualifying student health insurance plan (QSHIP) or in a plan with comparable coverage. Schools will automatically enroll students in QSHIP and add the charges to tuition unless the student demonstrates that he or she has comparable coverage. Many students may have coverage as a dependant on their parents' health plan. (Massachusetts insurers who offer dependent coverage must offer such coverage to children until age 26 or two years after ceasing to qualify as a tax dependent of the insured whichever is earlier). The cost and scope of coverage of QSHIP plans vary. Students who are eligible for QSHIP are not eligible for MassHealth Basic, Essential or Commonwealth Care or for primary coverage from the Health Safety Net. However, the Health Safety Net is available to supplement coverage for students who are enrolled in QSHIP or have comparable coverage. Qualifying Student Health Insurance Plans are regulated by the Division of Health Care Finance and Policy.

114.6 C.M.R. § 3.00.

235 What is the Fishing Partnership?

The Fishing Partnership is a subsidized health plan available to individuals and families who derive more than 50 percent of their income from the commercial fishing industry. Comprehensive benefits are available through Harvard Pilgrim Health Care for a sliding scale premium charge. People who are eligible for the Fishing Partnership are not eligible for Commonwealth Care. For more information call 888-282-8816 or visit www.fphp.org.

Part 20

Sources of Additional Information

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236 Office of Medicaid

**Executive Office of Health
and Human Services,**

One Ashburton Place, 11th Floor
Boston, MA 02108
Tel. 617-573-1600

Office of Medicaid (Operations)

600 Washington Street, 5th Floor
Boston, MA 02111
Tel. 617-210-5000

MassHealth Board of Hearings

2 Boylston Street
Boston, MA 02116
Tel. 617-210-5800, 800-655-0338
Fax: 617-210-5820

**MassHealth Enrollment Center
in Springfield**

333 Bridge Street
Springfield, MA 01103
Tel. 800-322-5545
Fax: 413-785-4180

**MassHealth Enrollment Center
in Tewksbury**

367 East Street
Tewksbury, MA 01876-1957
Tel. 800-408-1253
Fax: 978-863-9300

Insurance Partnership

Tel. 800-399-8285

Office of Medicaid (Policy & Legal)

One Ashburton Place, 11th Floor
Boston, MA 02108
Tel. 617-573-1600
Fax: 617-573-1895 (Legal Dept.)

Central Processing Unit

PO Box 290794
Charlestown, MA 02129-0214
Tel. 800-843-7114
Fax: 617-241-6005

**MassHealth Enrollment Center
in Revere**

300 Ocean Avenue
Revere, MA 02151
Tel. 800-322-1448
Fax: 781-485-3400

**MassHealth Enrollment Center
in Taunton**

21 Spring Street, Suite 4
Taunton, MA 02780-0711
Tel. 800-242-1340
Fax: 508-828-4611

MassHealth Enrollment Centers (All)

Tel. 888-665-9993
TTY: 888-665-9997

Customer Service Center (Maximus)

(Choice of health plan; transportation assistance; questions about services)
Tel. 800-841-2900
Fax: 617-350-3489
TTY: 800-497-4648

Part 20 n Sources of Additional Information

Premium Billing Office

(Premium payment problems and hardship waivers are now handled by Maximus)

Tel. 800-841-2900

TTY: 800-497-4648

Disability Evaluation Service

Tel. 800-888-3420

Fax: 617-241-6005

Drug Utilization Review Appeals

Tel. 508-421-6148

Fax: 877-208-7428

Boston Medical Center HealthNet Plan

Member Services Department

Tel. 1-888-566-0010

Mental Health and Substance Abuse Services

Tel. 1-888-217-3501

Neighborhood Health Plan

Member Services Department

Tel. 1-800-462-5449

Mental Health and Substance Abuse Services

Tel. 1-800-414-2820

Network Health

Member Services Department

Tel. 1-888-257-1985

Mental Health and Substance Abuse Services

Tel. 1-888-257-1986

Behavioral Health Partnership

Tel. 800-495-0086

Premium Assistance, Benefit Coordination & Recoveries Unit

MassHealth Standard and CommonHealth Premium Assistance; & Medicare savings programs

Tel. 800-462-1120;

Family Assistance Premium Assistance

Tel. 888-291-4464

Unicare

(administers CMSP and HSP benefits)

Tel. 800-909-2677 (CMSP);

888-488-9161 (HSP)

Prior Approval Unit

Tel. 617-451-7017

Fax: 617-451-7092

Fallon Community Health Plan

Member Services Department

Tel. 1-800-868-5200

Mental Health and Substance Abuse Services

Tel. 1-888-421-8861

Primary Care Clinician Plan (PCC Plan)

Member Services Department

Tel. 1-800-841-2900

Mental Health and Substance Abuse Services

Tel. 1-800-495-0086

237 Other Useful Telephone Numbers

State Agencies:

MassHealth, Commonwealth Care, Health Safety Net self-service line for members & applicants. 888-665-9993 anytime, day or night, *except* from Saturday, 10:00 p.m. to Sunday, 6:00 a.m. (Select English or Spanish; press “1” when you hear the option “If you are calling about a notice you received or to check on the status of your case, press 1”; follow instruction in a series of menus to obtain information about the status of your case or application.)

Department of Mental Health

617-626-8000

Department of Public Health

800-531-2229

- n *Women’s Health Network:* 1-877-414-4447 (breast and cervical cancer screening and application for MassHealth for women diagnosed with such cancers and in need of treatment).
- n *HIV Drug Assistance Program (H-DAP):* 800-228-2714 (help with costs of HIV drugs or for the costs of insurance that will cover HIV drugs).
- n *Substance Abuse Information & Referral:* 617-292-5065; 800-327-5050 (including treatment for uninsured state residents).
- n *Office of Patient Protections:* 1-800-436-7757 (information on managed care consumer protections, and external review of managed care coverage denials).

Department of Transitional Assistance

800-249-2007

Division of Health Care Finance and Policy/Health Safety Net Help Line

617-988-3222; 877-910-2100

Division of Unemployment Assistance/MSP Customer Service Line

800-908-8801

Executive Office of Elder Affairs

617-727-7750
800-AGE-INFO

Health Insurance Connector Authority

100 City Hall Plaza
Boston, MA 02109
Tel. 617-933-3030
Fax: 617-933-3070

Commonwealth Care Customer Service

133 Portland Street (premiums can be paid in person at this address)
Boston, MA
Tel. 877-623-6765
TTY: 1-877-623-7773

Commonwealth Care Exceptions Department

PO Box 9212
Chelsea, MA 02150

Other organizations:

Health Care for All Help Line: 617-350-7279; 800-272-4232 (information, referrals, and application assistance).

Mayor's Health Line: 617-534-5050; 800-847-0710 (information, referrals, and application assistance).

Massachusetts Medline: 866-633-1617 (information and referrals for free or low-cost medications).

238 Legal Citations and References

Laws and Regulations

Federal Law:

Federal Medicaid Law: Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., 42 C.F.R. Parts 430–456.

Part 20 ⁿ Sources of Additional Information

Medicaid waiver authority: Section 1115 of the Social Security Act, 42 U.S.C. § 1315.

Federal eligibility based on immigration status: 8 U.S.C. §§ 1612(b), 1613, and 1641.

State Children’s Health Insurance Program (SCHIP): Title XXI of the Social Security Act, 42 U.S.C. § 1397aa–jj; 42 C.F.R. Part 457.

Federal Anti-Discrimination Laws: The Americans with Disabilities Act, 42 U.S.C. §§ 12131–34 and 28 C.F.R. Part 35; the Rehabilitation Act of 1973, 29 U.S.C. § 794.

State Law:

MassHealth, G.L. c. 118E; 130 C.M.R. §§ 401–42, 456, 484–85 (covered services), 450 (administrative and billing), 501–08 (health reform), 515–21 (traditional Medicaid), 522 (other programs), 610 (fair hearings), and 650 (insurance partnership).

Medical Security Plan: G.L. c. 151A, § 14G; 430 C.M.R. § 7.00 et seq.

Children’s Medical Security Plan: G.L. c. 118E, § 10F; 130 C.M.R. § 522.004.

Healthy Start: G.L. c. 118E, § 10E; 130 C.M.R. § 522.005.

Health Safety Net/Free Care: G.L. c. 118G, §§ 35–39; 114.6 C.M.R. §§ 13.00 and 14.00.

Prescription Advantage: G.L. c. 19A, § 39; 651 C.M.R. § 15.

Massachusetts Home Care: 651 C.M.R. § 3.00 et seq.

Commonwealth Care Health Insurance Program: G.L. c. 118H; 956 C.M.R. 2.00 and 3.00.

Managed Care Consumer Protections: G.L. c. 170O; 105 C.M.R. 128.000 (Department of Public Health) and 211 C.M.R. 52.00 (Department of Insurance).

An Act Providing Access to Affordable, Quality, Accountable Health Care: St. 2006, c. 58 as amended by c. 324 and c. 450 St. 2006, and c. 205, St. 2007.

Annual Appropriations Acts, c. 182, St. 2008 (the General Appropriation Act for fiscal year 2009)

239 Other Sources

Baker, Patricia, *EAEDC Advocacy Guide*, 2008 edition (Massachusetts Law Reform Institute and Massachusetts Continuing Legal Education, Boston, MA). To order: 1-800-966-6253.

Eichner, Stanley and Griffin, Christine ed., *Legal Rights of Individuals with Disabilities*, 2002 (Disability Law Center and Massachusetts Continuing Legal Education, Boston, MA). To order: 1-800-966-6253.

Bauer, Linda G., Freedman, Don and Starr, Emily eds., *Estate Planning for the Aging or Incapacitated Client in Massachusetts*, 2007 edition (Massachusetts Continuing Legal Education, Boston, MA). To order: 1-800-966-6253.

Harris, Deborah et al., *TAFDC Advocacy Guide*, 2008 edition (Massachusetts Law Reform Institute and Massachusetts Continuing Legal Education, Boston, MA). To order: 1-800-966-6253.

Landry, Linda et al., *An Advocate's Guide to Surviving the SSI System*, 2005 edition (Disability Law Center, Massachusetts Law Reform Institute, and Massachusetts Continuing Legal Education, Boston, MA). \$15
To order: 1-800-966-6253.

Massachusetts Division of Health Care Finance and Policy, *Access to Health Care in Massachusetts: A Catalog of Health Care Programs for Uninsured and Underinsured Individuals* (2004, Boston, MA).
To order: 617-988-3100.

National Immigration Law Center, *Guide to Immigrant Eligibility for Federal Programs* (4th ed. 2002). To order: 213-639-3900, ext. 3.

Perkins, Jane et al., *An Advocate's Guide to the Medicaid Program*, 2001, (National Health Law Program, Los Angeles, CA) To order: 310-204-6010.

240 Websites

National

Centers on Medicare and Medicaid Services: www.cms.hhs.gov

This website by the federal agency that administers Medicaid contains extensive information on Medicare, Medicaid, and SCHIP, including CMS's State Medicaid Manual and Letters from CMS Officials to State Medicaid Officials.

National Health Law Program: www.healthlaw.org

An excellent site for legal advocates with extensive information on Medicaid and links to other useful sites.

Kaiser Commission on Medicaid and the Uninsured: www.kff.org

Reports on Medicaid, Medicare, the uninsured, and other topics, including a comparison of health facts among the states.

Bazelon Center for Mental Health Law: www.bazelon.org

Resources on legal rights of people with mental disabilities.

Center on Budget and Policy Priorities: www.cbpp.org

Reports on Medicaid, children's health, and other policy issues.

Families USA: www.familiesusa.org

Reports on Medicaid, Medicare and the uninsured, and current legislative developments, and links to other health-related sites.

Massachusetts

Office of Medicaid: www.mass.gov/MassHealth

This website contains summaries of MassHealth programs, the application form and member booklet, regulations, provider manuals and bulletins, transmittal letters, and other information about MassHealth administered programs.

n *Provider regulations (covered services):* www.mass.gov/masshealth
From the main page, select "MassHealth Regulations and Other Publications."

n *MassHealth Drug List:* www.mass.gov/masshealth
From the main page, select "MassHealth Drug List."

n *Massachusetts Behavioral Health Partnership:* www.masspartnership.com

n *Children's Medical Security Plan:* www.cmspkids.com

n *Healthy Start Program:* www.hspmoms.com

n **Website for the MassHealth Managed Care Organizations:**

n *BMC Health Net:* www.bmchp.org; *Neighborhood Health Plan:* www.nhp.org; *Network Health Plan (Cambridge Health Alliance):* www.network-health.org; *Fallon Community Health Plan:* www.fchp.org

MassHealth Training Forum: www.masshealthmtf.org

Training materials and other information presented at regional training forums sponsored by the MassHealth agency for providers and consumers.

Division of Health Care Finance and Policy: www.mass.gov/dhcfp

This website contains information on the Health Safety Net/Free Care program, rate regulations for MassHealth services, Key Indicators reports on the health reform implementation and reports on managed care, the uninsured, the hospital system, and other topics.

Department of Public Health: www.mass.gov/dph

This website contains information about various public health programs including:

n the Women's Health Network breast and cervical cancer screening programs, for participating medical sites, see www.massmammography.com,

n substance abuse services, www.helpline-online.com,

n services for people with HIV disease, www.crine.org, and

n the Office of Patient Protections (external review of managed care organization medical necessity determinations), www.mass.gov/dph/opp.

The Division of Unemployment Assistance: www.mass.gov/dua

This website contains information about health insurance coverage for unemployment insurance recipients through the Medical Security Plan.

Executive Office of Elder Affairs: www.mass.gov/elders and www.800ageinfo.com

Information about services to elders including Medicare, the Prescription Advantage Program, Home Care Services, Aging Service Access Points, and free health counseling for elderly and disabled individuals through the SHINE program.

Part 20 ⁿ Sources of Additional Information

Department of Mental Health: www.mass.gov/dmh

This site includes the eligibility criteria for DMH services.

Department of Transitional Assistance: www.mass.gov/dta

This site includes information about programs administered by DTA including EAEDC and TAFDC.

Health Insurance Connector Authority: www.mahealthconnector.org

Extensive information about programs administered by the Connector including descriptions of Commonwealth Care eligibility criteria, premiums, copayment and benefit schedules, regulations and administrative bulletin and a section where members can log-in; information about unsubsidized health plans offered through the Connector's Commonwealth Choice program; information about health reform, the affordability schedule and the individual mandate, and proceedings of the Connector's Board of Directors.

Department of Revenue: www.mass.gov/dor

Information about tax filing including Schedule HC and instructions and individual mandate penalties for the current tax year.

Department of Insurance: www.mass.gov/doi

Information from the agency regulating health insurance including a Health Insurance Consumer Guide, insurance laws and regulations; and lists of licensed insurers.

Massachusetts Blue Cross Blue Shield Foundation:

www.bcbsmafoundation.org

Massachusetts Medicaid Policy Institute: www.massmedicaid.org

The Foundation website includes a series of reports on health reform in Massachusetts as well as health-related grant opportunities. The Foundation-supported MMPI includes reports focusing on the MassHealth program.

Massachusetts Legal Services Programs: www.masslegalservices.org

This site includes information for advocates about health, benefits, housing, family law, and other substantive areas of poverty law. The Health section is maintained by MLRI and includes updates on current developments and other advocacy materials. The related site, www.masslegalhelp.org, includes community education materials for clients as well as information listing legal services programs throughout the state.

Health Care for All: www.hcfama.org

This site describes the advocacy and organizing projects of Health Care for All and describes pending health access legislation as well as the activities of Coalitions working on such issues as children’s health, eliminating health disparities, and implementing health reform. A daily blog is indispensable reading for those working on health policy issues.

Massachusetts Community Partners: www.compartners.org

This site includes materials to assist community outreach workers who help low-income uninsured and elderly people enroll in available health benefits.

Outreach Grantees:

[www.umassmed.edu/uploadedFiles/Commed_Microsites/ocp/MHEOG/FY%2008%20Grant%20Organization%20Directory%20Information%20for%20website%20\(2\).pdf](http://www.umassmed.edu/uploadedFiles/Commed_Microsites/ocp/MHEOG/FY%2008%20Grant%20Organization%20Directory%20Information%20for%20website%20(2).pdf)

Information on how to contact each of 40 organizations across the state funded by EOHHS to assist individuals in obtaining and maintaining health coverage.

241 Legal Services Offices

Legal services programs located throughout the state provide free legal services to low-income and elderly state residents who live in their service areas in certain civil (non-criminal) legal matters. Different offices have different areas of expertise and priorities. For more information, visit www.masslegalhelp.org.

Boston College Legal Assistance Bureau (Waltham).....	781-893-4793
Cambridge & Somerville Legal Services	617-603-2700
Center for Public Representation (disability issues)	
Northampton.....	413-587-6265
Newton.....	617-965-0776
Children’s Law Center of Massachusetts	781-581-1977
Community Legal Services & Counseling Center (Cambridge)	617-661-1010
Disability Law Center	
Boston	617-723-8455; 800-872-9992
Northampton	413-584-6337; 800-222-5619
Greater Boston Legal Services.....	617-371-1234; 800-323-3205
Harvard Legal Aid Bureau.....	617-495-4408

Part 20 n Sources of Additional Information

Legal Advocacy & Resource Center.....	617-603-1700; 800-342-5297
(Statewide intake & referral)	
Legal Assistance Corp. of Central Mass. (Worcester).....	508-752-3718; 800-649-3718
Legal Services Center (Wilmer-Hale -Jamaica Plain).....	617-522-3003
Mass. Justice Project	
Holyoke.....	413-533-2660; 800-639-1209
Worcester.....	508-831-9888
Massachusetts Law Reform Institute.....	617-357-0700; 800-717-4133
Merrimack Valley North Shore Legal Services	
Lynn.....	781-599-7730
Lowell (main office).....	978-458-1465; 800-525-0989
Mental Health Legal Advisors Committee.....	617-3382345; 800-342-9092
MetroWest Legal Services (Framingham).....	508-620-1830; 800-696-1501
Neighborhood Legal Services	
Lawrence.....	978-686-6900; 888-657-2889
Lynn.....	781-599-7730; 800-747-5056
New Center for Legal Advocacy	
New Bedford.....	508-996-8576; 800-244-9023
Plymouth.....	508-746-2777; 800-585-4933
New England School of Law Clinical Law Office (Boston).....	617-422-7380
South Coastal Counties Legal Services	
Brockton.....	508-586-2110; 800-244-8393
Fall River.....	508-676-6265; 800-287-3777
Hyannis.....	508-775-7020; 800-742-4107
New Bedford.....	508-979-7150; 800-929-9721
Plymouth.....	508-747-1444; 800-742-4107
Suffolk University Law School Disability Advocacy Clinic.....	617-573-8000
Volunteers Lawyers Project of the Boston Bar Association.....	617-426-0648
Western Massachusetts Legal Services	
Greenfield.....	413-774-3747; 800-639-1309
Northampton.....	413-584-4034; 800-639-1309
North Adams.....	413-664-4531
Pittsfield.....	413-499-1950; 800-639-1509
Springfield.....	413-781-7814; 800-639-1109

Legal assistance is also available from Health Law Advocates, who provide representation to low and moderate income clients and make referrals to a panel of pro bono lawyers on health-related issues

Health Law Advocates..... 617-338-5241; 800-272-4232 (Help Line)