

Part 8

Eligibility Criteria for Disabled Adults Ages 18–64

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63 Which adults with disabilities can get the most comprehensive coverage—MassHealth Standard?

People under age 65 who are Massachusetts residents, U.S. citizens, or qualified or protected noncitizens, and who meet the following criteria are eligible for MassHealth Standard:

- n individuals or couples who receive Supplemental Security Income (SSI) or received SSI in the past and are still “deemed” SSI recipients (see Part 3, Relationship Between MassHealth Eligibility and Receipt of Cash Assistance);
- n individuals or couples who are “permanently and totally disabled” and have gross family income no more than 133 percent of poverty without regard to their assets;
- n certain older individuals who meet the level of care criteria for nursing home or other institutional care but are able to live at home and qualify under the requirements of the Home and Community Based waiver (age 60 or older), or the PACE program (age 55 or older) described in Part 11; or
- n individuals who meet the level of care criteria for nursing home or other institutional care and who satisfy the financial eligibility criteria applicable to long-term nursing home care (see Parts 12 and 15 for more on the eligibility criteria for nursing home care).

See 130 C.M.R. §§ 505.002(F), 519.007 (HCBS and PACE), 519.006 (nursing home care).

64 What is the disability test for adults?

The disability test for MassHealth Standard is the same test used in the SSI program: a medically determinable physical or mental impairment that prevents the individual from engaging in substantial gainful activity and can be expected to

last for at least 12 months or result in death. *See* 130 C.M.R. § 501.001 (definition of “permanent and total disability”). For more information on the SSI disability standard, *see* 20 C.F.R. Part 416, and *Legal Rights of Individuals with Disabilities* (MCLE, Inc. 2002).

65 Who makes the determination as to an adult’s disability?

Disability is established by

- n a determination of disability by the Social Security Administration (SSA);
- n a certification of blindness by the Massachusetts Commission for the Blind; or
- n a determination of disability by the MassHealth agency’s contractor, the Disability Evaluation Service (DES)/Disability Determination Unit at the University of Massachusetts Medical School.

Disability determination for DTA: The DES determines disability for DTA for purposes of TAFDC and EAEDC eligibility as well as for MassHealth. It conducts a consolidated evaluation under all three standards regardless of whether the application came from the DTA or the MassHealth agency. Someone applying to DTA for EAEDC will be automatically upgraded from MassHealth Basic to MassHealth Standard if the DES finds that the individual meets the SSI-level disability criteria. *See* 130 C.M.R. § 505.002(F)(3). The reverse is not true—a MassHealth applicant who only meets the EAEDC standard will be denied MassHealth Standard benefits for not meeting the SSI-level standard but may be eligible for Commonwealth Care. The individual will have to separately apply to DTA for EAEDC and MassHealth Basic.

66 Which adults with disabilities who are not eligible for MassHealth Standard can get CommonHealth?

Adults who are not eligible for MassHealth Standard but meet the following criteria are eligible for CommonHealth:

- n resident of Massachusetts;
- n U.S. citizen; or
- n qualified or protected noncitizen;
- n “permanently and totally disabled,” as defined at 130 C.M.R. § 501.001;
- n age 19 to 64, not working 40 hours or more per month, and having met a one-time deductible amount; or
- n any age if working 40 hours or more per month.

There is no income eligibility ceiling and no asset test, but monthly premiums are due for individuals with gross family income over 150 percent of poverty. See Part 17 for more information on premiums.

130 C.M.R. §§ 505.004 (under age 65), 519.012 (working disabled age 65 and older).

67 What is the one-time deductible?

Disabled adults who are not working and have gross income over 133 percent of poverty or, if they are HIV positive, over 200 percent of poverty, are not eligible for CommonHealth until they have incurred medical expenses that equal or exceed the amount of a deductible. Once they have incurred medical and related expenses that equal or exceed the amount of the deductible, they will not have to meet a deductible again until they turn age 65. For information on how to

calculate the amount of the one-time deductible, and what expenses can be used to meet the deductible, see Part 12, Financial Eligibility.

Disabled individuals with a one-time deductible and income under 300 percent of poverty will generally be eligible for Commonwealth Care. If they are later able to meet the CommonHealth deductible, they will then be upgraded to that program . (The similarity in the names of the two programs is an unfortunate source of confusion.) See Q & A 71 below and Part 10 for more on Commonwealth Care.

68 What are CommonHealth eligibility criteria for working disabled adults?

Working disabled adults eligible for CommonHealth without a deductible must meet the following criteria regarding disability and work:

- n “permanent and total disability” as defined in 130 C.M.R. § 501.001, except for engaging in substantial gainful activity; and
- n employment for at least 40 hours per month or if employed less than 40 hours, employment for at least 240 hours in the six months prior to the month of application or renewal.
 - n Employment is not defined, and there is no minimum earnings requirement. Advocates report that the MECs apply a flexible standard in recognizing employment, sometimes using a \$1 per hour rule of thumb to identify employment.

See 130 C.M.R. §§ 505.004, 519.012.

69 What are the CommonHealth eligibility criteria for 18-year-olds?

In SSI, there is a different disability standard for children under 18 and for adults age 18 and over. In MassHealth, persons who are age 18 must meet the SSI adult disability standards as working or not working adults, but they do not have to meet a one-time deductible if they are not working. See Part 5 for the disability criteria for persons under age 18.

130 C.M.R. § 505.004(E).

70 What are the disability standards for adults ages 18–64 in CommonHealth?

Disability is determined by the same agencies that determine disability for MassHealth Standard and the definition of disability is also the same SSI standard used in MassHealth Standard except for working disabled adults.

Under the SSI disability standard, someone who is working and earning enough for the work to be considered “substantial gainful activity” is not considered disabled. This bar does not apply to the working disabled in CommonHealth. However, applicants must still have a medical condition that satisfies all other aspects of the SSI disability standard.

See 130 C.M.R. § 505.004(B).

71 Which adults ages 18–64 with disabilities get MassHealth Basic/Essential or Commonwealth Care?

Adults with disabilities may be enrolled in MassHealth Basic or Essential or Commonwealth Care in the following situations:

- n **Pending disability determination.** Adults with disabilities who do not yet have a disability determination and who are also long-term unemployed will be enrolled in MassHealth Essential until the Disability Evaluation Service/Disability Determination Unit (DES) makes a disability determination. If they are clients of DMH and long-term unemployed, they may be enrolled in MassHealth Basic. If their gross family income exceeds 133 percent of poverty, they may be enrolled in Commonwealth Care pending the disability determination. If the DES eventually determines that they are disabled, their MassHealth will be upgraded to MassHealth Standard or to Commonwealth Care if they are working or can meet the spenddown. If DES determines that they are not disabled, and their income is under 133 percent of poverty and they are not in MassHealth Essential or Basic, they may then be determined eligible for Commonwealth Care.
- n **Disability less than SSI.** Adults with disabilities who do not have a disability that is expected to last 12 months or more or does not otherwise meet the SSI disability standard may be able to qualify for EAEDC under the EAEDC disability standard. Recipients of EAEDC are eligible for MassHealth Basic (some “special status” immigrants are eligible for Essential instead).
 - n To be disabled under EAEDC rules someone must have one or more impairments that substantially reduce his or her ability to support himself or herself, and that are expected to last at least 60 days. 106 C.M.R. § 320.200.
 - n To be eligible for EAEDC, an applicant must also apply to the DTA, and meet EAEDC income and asset rules. *See EAEDC Advocacy Guide* (MLRI/MCLE, Inc. 2008).
- n **Aliens with special status.** Adult noncitizens who satisfy the disability criteria and who are subject to the five-year bar or PRUCOL are also eligible for MassHealth Essential. See Part 13.

- n **Disputed disability or unable to meet spenddown.** Adults with disabilities who are determined by DES *not* to meet the disability criteria, or who are ineligible for CommonHealth until meeting a spenddown, may be eligible for Commonwealth Care. See Part 10.

72 What MassHealth coverage is available for women with breast or cervical cancer?

Women at higher income levels may be eligible for MassHealth Standard through the Breast and Cervical Cancer Treatment program (BCCT) if they meet the following criteria:

- n age 19 to 64;
- n uninsured (or underinsured for cancer treatment);
- n not otherwise eligible for MassHealth Standard;
 - n Women eligible for MassHealth Basic/Essential or Commonwealth Care can qualify for BCCT in order to be upgraded to MassHealth Standard.
- n gross family income not over 250 percent of poverty; and
- n screened through a clinic that is part of the Department of Public Health Women’s Health Network (WHN) and found to need treatment for breast or cervical cancer.
 - n Applications for MassHealth based on the need for breast or cervical cancer treatment must be processed by a Women’s Health Network site.
 - n A woman who has already been diagnosed with breast or cervical cancer may still satisfy the screening requirement if her clinician completes a form supplied by the WHN site.
 - n To locate a WHN site, call the Women’s Health Network at 1-877-414-4447.

There is a sliding scale premium charge for women with income over 150 percent of poverty. See Table 18 in Appendix B. Eligibility for BCCTP continues only

while the woman is receiving cancer treatment. When treatment ends, the MassHealth agency will review whether the woman is eligible on some other basis for MassHealth or Commonwealth Care.

130 C.M.R. § 505.002(H).

73 What other programs are available for people with disabilities?

The following programs for seniors described in Part 11 are also available to some people under 65 with disabilities. The MassHealth programs listed below use traditional Medicaid financial eligibility rules including an asset test, except as noted, not the rules under Medicaid reform.

MassHealth Programs:

- n Home and Community Based Services Waiver (age 60 or over);
- n PACE Program (age 55 or over); and
- n Medicare Savings Programs (no minimum age).

Also see Part 10 for Commonwealth Care and Part 19, Health Programs Other than MassHealth, for a description of the following programs:

- n Commonwealth Care (age 19 or older and not eligible for Medicare);
- n Prescription Advantage (no minimum age);
- n Massachusetts Home Care (age 60 or over or diagnosis of Alzheimer’s disease);
- n Health Safety Net (no minimum age); and
- n veterans’ health benefits (no minimum age).

Individuals with HIV/AIDS may be eligible for assistance from one of these programs:

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- n The Massachusetts Insurance Connection will make premium payments to continue existing insurance coverage for disabled individuals with HIV/AIDS and gross family income under 300 percent of poverty. For more information, see 130 C.M.R. § 522.000 or call the MIC Program Coordinator at 617-210-5320.

- n The Department of Public Health provides HIV drug assistance or health insurance premium assistance for HIV-positive state residents. For more information visit www.crine.org or call 800-228-2714.

Part 9

Eligibility Criteria for Other Adults Under Age 65

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74 Which other adults under age 65 can get MassHealth?

MassHealth is available to adults under age 65 who need not be pregnant, parents, or disabled if they fall under one of these eligible groups:

- n HIV positive,
- n employees of or self-employed “qualified employers,”
- n long-term unemployed,
- n recipients of EAEDC, or
- n recipients of refugee resettlement assistance.

Adult not eligible for MassHealth with gross family income not in excess of 300 percent of poverty may also be eligible for Commonwealth Care. See Part 10.

75 What are the eligibility requirements for individuals who are HIV positive?

Individuals who are HIV positive but are not disabled are eligible for Family Assistance if they meet the following criteria:

- n residents of Massachusetts,
- n U.S. citizens or qualified noncitizens,
- n not eligible for Standard or CommonHealth,
- n under age 65,
- n HIV positive, and
- n with gross family income that does not exceed 200 percent of poverty.

- n There is no asset test.
- n There is a monthly premium charge for individuals with income over 150 percent of poverty. See Table 18.

Family Assistance Premium Assistance. Individuals with cost-effective insurance or access to such insurance are eligible to receive premium assistance to reimburse them for most of the premium costs of private insurance. See Table 8 for the cost effective amounts in SFY 2009.

Family Assistance direct coverage. HIV-positive individuals are eligible for direct coverage if they are uninsured or as a wraparound to cover services not available through the private plan for which they are reimbursed under Premium Assistance. Being able to receive both Family Assistance Premium Assistance and Family Assistance direct coverage is only available to HIV-positive children and adults. 130 C.M.R. § 505.005D(5)(b).

Other programs for people with HIV disease.

- n The Office of Medicaid also administers an insurance reimbursement program for individuals disabled by HIV disease who are not otherwise eligible for MassHealth called the Massachusetts Insurance Connection. For more information see 130 C.M.R. 522.000 or call 617-210-5320.
- n The Department of Public Health HIV/Aids Bureau administers an HIV Drug Assistance Program (HDAP) that can pay for HIV drugs or pay for insurance for coverage that includes HIV drugs (the Comprehensive Health Insurance Initiative). For more information visit www.crine.org or call 800-228-2714.

130 C.M.R. §§ 505.005(D) (Premium Assistance), 505.005(F) (direct coverage).

76 Can other adults get MassHealth premium assistance to pay for employer-sponsored insurance?

Adults who work for certain small employers or who are self-employed may qualify for Family Assistance Premium Assistance to pay part of the employee's

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share of the cost of employer-sponsored insurance. See Table 18 for the minimum cost to the employee with Premium Assistance, and Table 8 for the maximum subsidy available to the employee. To be eligible for premium assistance, the application must go through an employer who is participating in the Insurance Partnership program, and an employee must meet the following criteria:

- n resident of Massachusetts;
- n U.S. citizen or qualified noncitizen;
- n not eligible for Standard or CommonHealth;
- n adult age 19 to 64;
- n with gross family income less than or equal to 300 percent of poverty;
 - n Income eligibility increased from 200 to 300 percent of poverty effective October 1, 2006.
- n not insured with his or her current employer in the past six month; and
 - n This is a new requirement effective October 1, 2006; it does not apply to employees who were already enrolled in Family Assistance Premium Assistance prior to the effective date or to self-employed individuals who purchased their own insurance.
- n employed by a qualified employer or self-employed as a qualified employer participating in the Insurance Partnership.
 - n The employee completes the usual application for MassHealth (the MBR), but it must be accompanied by a cover sheet from the employer identifying the employer as a participant in the Insurance Partnership, and an affidavit regarding coverage in the past six months.

130 C.M.R. § 505.005(C).

77 What is a “qualified employer”?

A qualified employer is a small employer who has no more than 50 full-time employees, or a self-employed person, who:

- n offers or intends to offer health insurance that meets the “basic benefit level” defined at 130 C.M.R. § 501.001;
- n contributes at least 50 percent of the total cost of the health insurance premiums; and
- n has applied and been approved as a qualified employer under the Insurance Partnership program.

See 130 C.M.R. § 650.010 (Insurance Partnership).

78 What is the Insurance Partnership program?

The Insurance Partnership (IP) is a program funded under the Section 1115 demonstration waiver that pays “qualified employers” a portion of the cost of providing insurance to eligible employees. Eligible employees of qualified employers receive assistance from MassHealth to pay the employee’s share of the premium cost. Employees of an employer who offers subsidized insurance are not eligible for Commonwealth Care but may be eligible for Premium Assistance if their employer participates in the IP.

The Insurance Partnership will pay the employer monthly for each eligible employee: \$400 per year for individual coverage, \$800 per year for couple/dual coverage, or \$1,000 per year for family coverage.

The 2006 health reform law made several changes to the program. It raised the employee’s income eligibility from 200 percent to 300 percent of poverty, but also imposed a new requirement that the employee not have been insured through his or her current employer for the six months prior to application. Another change eliminated the employer subsidy for self-employed individuals but they remain eligible for premium assistance.

130 C.M.R. § 650.000.

79 What is the difference between Family Assistance Premium Assistance and Commonwealth Care for self-employed adults?

Since its inception in 2000, most of the participants in the IP have been self-employed. Now Commonwealth Care offers self-employed individuals an alternate source of assistance. Self-employed individuals with gross family income that does not exceed 300 percent of poverty may be eligible for either Premium Assistance or Commonwealth Care. Premium Assistance requires the individual to choose from among any insurance plan available in the commercial market that meets certain minimum standards, and it reimburses a portion of the cost. Commonwealth Care provides benefits through participating managed care plans that offer a prescribed set of benefits at a premium cost that varies with income.

In Premium Assistance, the cost to the self-employed individual will always be at least 50 percent of the full premium cost plus the minimum premium charge shown in Table 18, but it may well be more. The maximum amount of premium assistance cannot exceed the amount shown in Table 8. The minimum premium charge for Commonwealth Care is shown in Table 18, but it may be more if the individual chooses a managed care organization other than the lowest cost one participating in the region.

Currently, there is uncertainty about the circumstances in which a self employed person who is in the Insurance Partnership as a qualified employer can voluntarily terminate participation in the IP and enroll in Commonwealth Care instead.

See 130 C.M.R. §§ 505.005(C) (Premium Assistance), 650.000 (Insurance Partnership); 956 C.M.R. § 3.09 (Commonwealth Care).

80 Which unemployed adults are eligible for MassHealth Basic?

Individuals or couples who meet the following criteria are eligible for MassHealth Basic:

- n residents of Massachusetts;
- n U.S. citizens or qualified noncitizens;
- n long-term unemployed clients of the Department of Mental Health (DMH) who have gross family income under 100 percent of poverty;
 - n long-term unemployment is defined the same way it is in MassHealth Essential; see below.
 - n to be a DMH client, an individual must apply to DMH and be determined a person with a severe and persistent mental illness. Individuals on the waiting list for DMH services as well as those receiving services are considered clients of DMH. Unlike cash assistance recipients, DMH clients must file a separate application with the MassHealth agency to qualify for MassHealth; coverage is not automatic but the DMH determination is electronically transmitted to the MassHealth agency and need not be proved by the applicant; or
- n recipients of cash welfare under Emergency Aid to Elders, Disabled and Children (EAEDC). The Department of Transitional Assistance determines eligibility for EAEDC and recipients automatically receive MassHealth Basic (certain special status/PRUCOL immigrants receive MassHealth Essential instead).

130 C.M.R. § 505.006.

81 Which unemployed adults are eligible for MassHealth Essential?

On April 1, 2003, state law eliminated MassHealth Basic coverage for long-term unemployed adults unless they were also clients of the Department of Mental Health (DMH). However, on October 1, 2003, the state created a new program called MassHealth Essential for long-term unemployed adults who were not DMH clients. The new program had an enrollment cap and operated with a waiting list reaching into the thousands until July 1, 2006 when the cap was raised to enroll everyone off the waiting list as part of the health reform law. Currently, there is no enrollment cap.

Eligible individuals or couples must be:

- n residents of Massachusetts;
- n U.S. citizens or qualified noncitizens; or
- n special status or PRUCOL noncitizens who are disabled;⁸
- n under age 65;
- n currently unemployed; and
 - n unemployed for at least the past 12 months, or
 - n with earnings in the past 12 months that are less than the minimum required to qualify for unemployment compensation (\$3,300 per year in SFY 2009),
 - n individuals cannot be denied if they are employed only intermittently or on a nonregular basis;⁹
- n not eligible for unemployment compensation;
- n not eligible for health insurance offered by a college or university that the applicant attends;

⁸ See Part 11 regarding the MassHealth Essential eligibility of elderly special status and PRUCOL immigrants.

⁹ This provision is included in annual budget language. St. 2008, c. 182, § 2, item 4000-1405.

- n without affordable health insurance;
- n with gross family income at or under 100 percent of poverty; and
- n with a spouse, if any, employed no more than 100 hours per month.
- n There is no asset test.

130 C.M.R. § 505.007.

Premium assistance: Individuals or couples who would be eligible for MassHealth Basic or Essential except that they have access to health insurance for which they must pay a premium may be eligible for Premium Assistance. The MassHealth agency will contribute the actual cost of the premium up to a maximum amount per month instead of providing direct coverage.

82 How do MassHealth Basic and MassHealth Essential differ?

MassHealth Essential covers fewer services than MassHealth Basic; see Table 18. Currently, none of the MassHealth managed care organizations participate in Essential, but this may be changing in SFY 2010. In Basic, up to six months extended eligibility is available for individuals who return to work and do not have insurance at work, but there is no extended eligibility in MassHealth Essential. Also, Essential is available to elderly and disabled special status and PRUCOL immigrants.

83 Which childless adult refugees are eligible for MassHealth Standard?

Refugees eligible for assistance from the refugee resettlement program are eligible for eight months of coverage under MassHealth Standard if they are under

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65 with gross family income under 100 percent of poverty and assets under \$2,000 for an individual or \$3,000 for a couple. This provision for eight months of coverage primarily benefits childless, nondisabled adults who would not otherwise be eligible for MassHealth. After eight months, the MassHealth agency will determine whether the refugees qualify for MassHealth under any other basis or for Commonwealth Care.

130 C.M.R. § 522.02.

84 What is EAEDC?

Emergency Aid to Elders, Disabled and Children is a cash assistance program administered by the Department of Transitional Assistance (DTA). Recipients automatically receive MassHealth. Disabled individuals who do not meet the SSI disability or immigration status criteria or are waiting for an SSI disability determination are often able to receive EAEDC. Emergency Aid to Elders, Disabled and Children recipients are also eligible for a limited EAEDC benefit while awaiting selection of a managed care plan and enrollment into MassHealth Basic. For more information on the eligibility criteria for EAEDC, see Part 3 and *EAEDC Advocacy Guide* (MLRI/MCLE, Inc. 2008).

130 C.M.R. § 501.004(B)(2).

85 What other programs are available for adults who are not eligible for MassHealth?

Adults with income under 300 percent of poverty who are not offered subsidized insurance by their employers may be eligible for subsidized insurance through the new Commonwealth Care health insurance program beginning October 1, 2006. See Part 10 for a discussion of Commonwealth Care.

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Adults eligible for unemployment compensation may be eligible for health coverage under the Medical Security Plan administered by the Division of Unemployment Assistance. Childless adults may also be eligible for the Health Safety Net. Many veterans are eligible for health care from the Veterans Administration. For more information on these programs see Part 19, Health Programs Other than MassHealth.

Part 10 n Eligibility Criteria for Uninsured Adults in Commonwealth Care