

Understanding the Affordable Care Act: Non-citizens' eligibility for MassHealth & other subsidized health benefits

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To qualify for comprehensive MassHealth benefits (not just emergency services or safety net benefits) and to qualify to purchase low-cost insurance through the Massachusetts Health Connector, people must satisfy several financial and non-financial eligibility criteria. Among the non-financial criteria is a requirement that individuals be U.S. citizens or non-citizens who have an eligible immigration status.¹ This paper summarizes the rules that MassHealth and the Connector use to determine when non-citizens have an eligible status. Of course, eligible immigrants, like U.S. citizens, must also satisfy all the other applicable financial and non-financial eligibility criteria in order to receive benefits.

To be eligible to purchase insurance through the Connector, with or without a premium tax credit or other subsidy under the Affordable Care Act, a non-citizen must have an immigration status on the list of statuses defined as *Lawfully Present*. A Lawfully Present non-citizen is eligible for benefits through the Connector in the same way as if he or she were a U.S. citizen.

MassHealth uses additional factors besides Lawful Presence to determine when immigrants have an eligible immigration status. MassHealth offers various types of comprehensive coverage with different benefits based on age, income, health status and other factors. Some eligible immigrants can obtain the same MassHealth benefits they could obtain if they were US citizens. Other eligible immigrants can obtain more than just emergency or safety net benefits, but not the same benefits for which they would be eligible if they were US citizens.

Table 1 compares the relationship between the Lawfully Present category used by the Connector and the additional categories of eligible immigrants used in MassHealth.

Table 2 summarizes the factors that affect immigrants' eligibility for different types of MassHealth plans and also shows eligibility for the Connector. However, Table 2 does not summarize all the other eligibility criteria that eligible immigrants and U.S. citizens must satisfy to receive benefits.

Four Appendices list the various immigration statuses and other conditions that determine whether someone falls into one of the eligibility categories used by the Connector and MassHealth as shown in Table 1

¹ Two groups of non-citizens: Pregnant women and certain "grandfathered" individuals who were receiving MassHealth or CommonHealth in 1997 may be eligible for comprehensive MassHealth benefits even without an eligible immigration status.

Table 1. Comparing Connector and MassHealth Immigrant Categories & Terminology			
Connector Term	MassHealth Terms	Code in HIX Computer System	Eligible Immigration Status?
Lawfully Present	Qualified	QLP	Yes
	Qualified Barred	QAB	
	Nonqualified Individual Lawfully Present	ILP	
Not Lawfully Present	Nonqualified PRUCOL	NQP	No
	Other (including undocumented)	UNDOC	

- *Lawfully Present* adults are eligible for comprehensive MassHealth only if they are also *Qualified* with three exceptions: 1) Pregnant women who are Lawfully Present need not be Qualified to be eligible for MassHealth Standard, 2) elderly or disabled poverty level immigrants who are Lawfully Present need not be Qualified to be eligible for MassHealth Family Assistance, 3) Lawfully Present immigrants receiving benefits since 1997 need not be Qualified to remain eligible for MassHealth Standard or CommonHealth
- Lawfully present children and 19 and 20 year old young adults are eligible for MassHealth Standard in the same way as they would be as US citizens.
- Immigrants who are *Nonqualified PRUCOL* are not eligible for the Connector but may be eligible for MassHealth Family Assistance, or, for disabled children and young adults, CommonHealth.
- Pregnant women are eligible for MassHealth Standard regardless of status.
- Immigrants who have been receiving MassHealth or CommonHealth continuously since June 30, 1997 or who have been in a nursing home since then remain eligible for MassHealth regardless of status. They are “Protected Non-Citizens,” see 130 CMR §§ 504.003(B) and 518.003(B).
- Undocumented non-citizens are only eligible for safety net programs with limited benefits: MassHealth Limited, Health Safety Net and/or the Children’s Medical Security Plan. Adults who are Qualified Barred or Nonqualified Individuals Lawfully Present may be eligible for both MassHealth Limited and the Connector.

Table 2: Immigrants Eligible for MassHealth & the Connector			
Immigration Status	Other Factors for MassHealth Cov. Type (% of poverty level)	MassHealth Coverage Type Eligibility	Connector Eligible Status?
Qualified –see Appendix 1 for list of Qualified statuses	Qualified immigrants are eligible for all MassHealth benefits in the same way as US citizens	MassHealth Standard, CommonHealth, CarePlus, Family Assistance & Medicare Savings Programs (QMB, SLMB, Q-1)	Yes
Qualified Barred and Non-Qualified Lawfully Present , see Appendix 3 for list of Lawfully Present statuses & Appendix 2 for Qualified Barred	Pregnant women & infants $\leq 200\%$; children 1-20 $\leq 150\%$	MassHealth Standard	Yes
	Children 1-18 $> 150\%$ $\leq 300\%$	Family Assistance	
	Disabled children 0-18 $> 150\%$	CommonHealth	
	Elderly & disabled adults $\leq 100\%$ (asset test for elderly)	Family Assistance	
	Other adults $\leq 133\%$	MassHealth Limited	
	Other adults $> 133\%$	None	
Nonqualified PRUCOL - see Appendix 4 for list of statuses	Pregnant women $\leq 200\%$	MassHealth Standard	No
	Infants $\leq 200\%$	Family Assistance	
	Children 1-18 $\leq 300\%$ FPL	Family Assistance	
	Disabled Children under 19	CommonHealth	
	Disabled young adults 19 & 20 $\leq 150\%$	CommonHealth	
	Other adults age 19-64 $\leq 300\%$; elderly $\leq 100\%$ & asset test	Family Assistance	
Other – including undocumented non US citizens	Pregnant women $\leq 200\%$	MassHealth Standard	No
	Infants $\leq 200\%$; Children & Young Adults 1-20 $\leq 150\%$; Adults 21-64 $\leq 133\%$; Adults 65 or older $\leq 100\%$ & asset test	MassHealth Limited	
	Children under 19	Children’s Medical Security Plan (CMSP)	
	All ages, $\leq 300\%$	Health Safety Net	
	On MassHealth since 1997 (grandfathered)	Standard or CommonHealth	

Appendix 1

Qualified (not barred) Non-Citizens

130 CMR 504.003(A)(1); 504.006(A) (under 65)

130 CMR 518.003(A)(1); 518.006(A) (65 and older)

8 U.S.C. 1641 (definition of Qualified); 8 USC 1613 (5-year bar); 8 USC 1612(b)(2)(C) (veterans) and (E) (certain Indians); Victims of Trafficking Protection Act of 2000; Pub. L. 106-386, Section 107

All Qualified non-citizens are Lawfully Present.

Group A: Individuals who are qualified regardless of date of entry into US or length of time with Qualified Status (never barred):

- Asylee (granted asylum)
- Refugee
- Granted withholding of deportation or withholding of removal under Immigration & Nationality Act (INA)
- Veteran or active duty military and spouse, widow and dependent child/ren
- Cuban/Haitian entrant including a Cuban or Haitian
 - Paroled into US after 1980,
 - Applicant for Asylum, or
 - Subject to a non-final order of exclusion
- American Indian born in Canada or other member of federally recognized tribe
- Victim of trafficking and his or her spouse, child, sibling, or parent
- Conditional entrant granted before 1980

Group B: Individuals with one of the following statuses potentially subject to 5-year bar who are not barred either because 5 years have been met or because they satisfy additional factors that exempt them from the 5-year bar:

- Lawful permanent resident (LPR/Green Card holder),
- Paroled into the U.S. for at least 1 year, or
- Battered spouse and child/ren, or battered child and parent

- Battered in US by US citizen or Legal Permanent Resident spouse or parent or family member of spouse or parent,
- No longer living with abuser, and
- With an approved or pending petition that sets forth a “prima facie case” that will lead to permanent resident status

AND

- Had Permanent Resident/Parole/Battered Immigrant status for 5 or more years or
- Had such status for less than 5 years, but exempt from 5-year bar because:
 - Entered US prior to 8/22/96 (regardless of status at time of entry) & continuously present until becoming Permanent Resident/Parolee/Battered Immigrant,
 - Veteran or Active Duty Military or his/her spouse, widow or dependent child,
 - Iraqi or Afghan Special Immigrant,
 - American Indian born in Canada (or other member of federally recognized tribe),
 - Cuban or Haitian who became a legal permanent resident under certain special laws (not through a family member or employer),
 - Amerasian born in Vietnam during Vietnam War era, or
 - Before becoming a legal permanent resident was an asylee, refugee, granted withholding of deportation, Cuban-Haitian Entrant, or trafficking victim.

**Appendix 2
Qualified Barred Non-Citizens**

**130 CMR 504.003(A)(2); 504.006(B) (under 65)
130 CMR 518.003(A)(2); 518.006(B) (65 and older)**

All Qualified Barred non-citizens are Lawfully Present.

Individuals with one of the following statuses who have had status for less than 5-years and are not exempt from the 5-year bar (see exemptions to 5 year bar in Appendix 1 Group B):

- Lawful permanent resident (LPR/Green Card holder),
- Paroled into the U.S. for at least 1 year, or
- Battered spouse and child/ren, or battered child and parent

Appendix 3

Lawfully Present Non-Citizens

**130 CMR 504.003 (A)(1)(2) and (3); 504.006(A) and (B) (under 65)
130 CMR 518.003(A)(1)(2) and (3); 518.006 (A) and (B) (65 & older)
45 CFR §§155.20 and 152.2; proposed § 155.20 and 42 CFR § 435.4 at 78 Fed. Reg. 4594
(Jan. 22, 2013) (definition of lawful presence); 45 CFR §155.305,(Exchange)
956 CMR § 12.05 (ConnectorCare)**

All Qualified and Qualified Barred Non-Citizens are also Lawfully Present. All Lawfully Present non-citizens are eligible for the Connector in the same way as US citizens. All Lawfully Present Children under 19 at any income level and 19 & 20 year old young adults with income under 150% FPL are eligible for MassHealth in the same way as US citizens.

Lawfully Present and also Qualified or Qualified Barred (as shown in Apx. 1 and 2)

- Lawful permanent resident (LPR/Green Card holder)
- Asylee
- Refugee
- Cuban/Haitian entrant
- Person paroled into the U.S. for at least one year
- Conditional entrant granted before 1980
- Battered spouse, child, or parent
- Victim of trafficking and his or her spouse, child, sibling, or parent
- Person granted Withholding of Deportation or Withholding of Removal, under the INA
- Member of a federally recognized Indian tribe or American Indian born in Canada

Lawfully Present but not Qualified or Qualified Barred (not shown in Apx. 1 and 2)²

- Person paroled into the US for less than one year
- Person granted Withholding of Deportation or Withholding of Removal under the Convention against Torture (CAT)
- Individual with valid non-immigrant status (including student visas (F-visa), crime victims (U-visa), specialty workers (H-visa), religious workers (R-visa) and others)

² MassHealth describes this group as Non-qualified individuals lawfully present

- Temporary Protected Status (TPS)
- Deferred Enforced Departure (DED)
- Deferred Action Status (except Deferred Action for Childhood Arrivals (DACA); they are Nonqualified PRUCOL, see Apx. 4.)
- Applicant for:
 - Special Immigrant Juvenile Status
 - Adjustment to LPR Status with an approved visa petition
 - Asylum who has either been granted employment authorization, OR is under 14 and has had an application for asylum pending for at least 180 days.
 - Withholding of Deportation or Withholding of Removal, under the INA or under the CAT who has either been granted employment authorization, OR is under 14 and has had an application for withholding of deportation or withholding removal under the immigration laws or under the CAT pending for at least 180 days.
- Individuals with employment authorization under 8 CFR 274a.12(c) including:
 - Registry applicants
 - Those under an Order of supervision
 - Applicants for Cancellation of Removal or Suspension of Deportation
 - Applicants for Legalization under IRCA
 - Applicants for Temporary Protected Status (TPS)
 - Persons granted legalization under the LIFE Act
- Lawful temporary resident granted under legalization program (8 USC 1160 or 1255a)
- Granted an administrative stay of removal by the Department of Homeland Security (DHS)

Appendix 4

Nonqualified Persons Residing in US under Color of Law (PRUCOL)

130 CMR 504.003(C); 504.006(C) (under 65)
130 CMR 518.003(C); 518.006(C) (65 and older)

Non-qualified PRUCOL non-citizens are not included on the Lawfully Present list but are residing in the US under color of law. They are not eligible to purchase insurance through the Connector.

Non-citizens who are not listed in Appendix 3 and have one of the following statuses/conditions:

- Granted indefinite stay of deportation;
- Granted indefinite voluntary departure;
- Have approved immediate relative petition, entitled to voluntary departure, and whose departure the U.S. Department of Homeland Security (DHS) does not contemplate enforcing;
- Granted voluntary departure by the DHS or an Immigration Judge, and whose deportation the DHS does not contemplate enforcing;
- Living under orders of supervision who do not have employment authorization under 8 CFR 274a.12(c);
- Have entered and continuously lived in the United States since before January 1, 1972;
- Granted suspension of deportation, and whose departure the DHS does not contemplate enforcing;
- Have a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention against Torture who have *not* been granted employment authorization, or are under the age of 14 and have *not* had an application pending for at least 180 days;
- Granted Deferred Action for Childhood Arrivals(DACA) or who have a pending application for DACA;
- Have filed an application, petition, or request to obtain a lawfully present status that has been accepted as properly filed, but who have not yet obtained employment authorization and whose departure the Dept. of Homeland Security (DHS) does not contemplate enforcing; or
- Any noncitizen living in the United States with the knowledge and consent of the DHS, and whose departure the DHS does not contemplate enforcing. (These include persons granted Extended Voluntary Departure due to conditions in the noncitizen's home country based on a determination by the U.S. Secretary of State.)

Additional Resources

Massachusetts

MassHealth and Connector, Member Booklet, Section 11, US Citizenship and Immigration rules; and Senior Guide to Health Coverage, Section 8, US Citizenship and Immigrations rules.

<https://www.mass.gov/lists/masshealth-member-guides-and-handbooks>

MassHealth and Connector, Immigration Document Types-description of documents, how to find codes from different documents and photos of sample documents (link from Getting Started Guide on mahealthconnector.org): <https://betterhealthconnector.com/immigration-document-types>

Table comparing benefits in the different types of MassHealth:

<https://www.masslegalservices.org/content/benefits-included-masshealth-coverage-type>

Overview of benefits in Connector Care:

<https://www.mahealthconnector.org/learn/plan-information/connectorcare-plans>

National

National Immigration Law Center, information about immigrants and access to health benefits:

<https://www.nilc.org/issues/health-care/>

Send questions or comments to Vicky Pulos, vpulos@mlri.org, 617-357-0700 Ext. 318. This document is available on-line at masslegalservices.org