

**Understanding the Affordable Care Act in Massachusetts:
Eligibility of non-citizens for MassHealth & other subsidized health benefits
October 2015**

To qualify for comprehensive MassHealth benefits (not just emergency services) and to qualify to purchase 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. This paper summarizes the rules that MassHealth and the Connector use to determine when non-citizens have an eligible status.

To be eligible to purchase insurance through the Connector, with or without a premium tax credit, a non-citizen must have an immigration status on the list of statuses considered “Lawfully Present.” MassHealth uses additional factors besides Lawful Presence to determine when immigrants have an eligible immigration status. Table 1 summarizes the relationship between the Lawfully Present category and the additional categories used in MassHealth.

MassHealth offers various types of coverage with different benefits based on age, income, health status and other factors. Some immigrants are eligible for MassHealth benefits in the same way as US citizens are. Other immigrants are eligible for some benefits, but not the same benefits for which they would be eligible if they were US citizens. Table 2 summarizes the immigration status and other conditions that affect immigrant eligibility for different types of MassHealth plans.

The Appendices list the various immigration statuses and other conditions that are included in the definitions of the terms used by the Connector and MassHealth

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

- “Lawfully Present” adults are eligible for full MassHealth only if they are “Qualified” with two exceptions: 1) Pregnant women who are Lawfully Present need not be Qualified to be eligible for MassHealth Standard, and 2) elderly or disabled poverty level immigrants who are Lawfully Present need not be Qualified to be eligible for MassHealth Family Assistance.
- Lawfully present children and 19 and 20 year old young adults are eligible for MassHealth Standard in the same way 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 are eligible for MassHealth regardless of status. They are “Protected Non-Citizens,” see 130 CMR §§ 504.003(B) and 518.003(B).
- Other 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.

Table 2: Immigrants Eligible for Different Types of MassHealth & the Connector			
Immigration Status	Other Requirements for MassHealth (Percent shown is % of federal poverty level)	MassHealth Eligible Coverage Type	Connector Eligible Immigration Status
Qualified –see Appendix 1 for list of Qualified statuses	Qualified (not barred) immigrants are eligible for all MassHealth benefits equally with US citizens	MassHealth Standard, CommonHealth, CarePlus, Family Assistance & Medicare Savings Programs (QMB, SLMB, Q-1)	Yes
Lawfully Present – not included above as Qualified - see Appendix 3 for list of all Lawfully Present statuses	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	
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, $\leq 400\%$	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)

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
- Refugee
- Granted withholding of deportation or withholding of removal under immigration laws (but not including CAT)
- 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 more than 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 will lead to permanent resident status (petition has been found to establish a “prima facie case”)

AND

- Had Permanent Resident/Parolee/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 Afghani 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 more than 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, 956 CMR § 12.05 (Exchange; 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.

- *Lawful permanent resident (LPR/Green Card holder)**
- *Asylee**
- *Refugee**
- *Cuban/Haitian entrant**
- *Person paroled into the U.S.**
- *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 immigration laws * or under the Convention against Torture (CAT)*
- Individual with non-immigrant status (including worker visas, student visas, and citizens of Micronesia, the Marshall Islands, and Palau)
- Temporary Protected Status (TPS)
- Deferred Enforced Departure (DED)
- Deferred Action Status (Deferred Action for Childhood Arrivals (DACA) isn't an eligible immigration status for applying for health coverage.)
- Applicant for:
 - Special Immigrant Juvenile Status
 - Adjustment to LPR Status with an approved visa petition

- *Victim of trafficking visa**
- 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 immigration laws or under the Convention against Torture (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 an administrative stay of removal by the Department of Homeland Security (DHS)
- *Member of a federally recognized Indian tribe or American Indian born in Canada**

**The kinds of immigration status shown in italic are not only Lawfully Present but also Qualified or Qualified Barred. MassHealth uses the term “Nonqualified Individual Lawfully Present” to describe a non-citizen with a status on this list that is not Qualified or Qualified Barred.*

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 eligible to purchase insurance through the Connector.

Non-citizens who are not included in the Lawfully Present List in Table 1 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 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 9, US Citizenship and Immigration rules; and Senior Guide to Health Coverage, Part 11, US Citizenship and Immigrations rules (March 2015): <http://www.mass.gov/eohhs/gov/laws-regs/masshealth/member-eligibility-lib/applications-and-member-forms.html> (last visited 10-19-15)

MassHealth and Connector, Immigration Document Types-description of documents, how to enter codes from different documents and photos of sample documents (link from Getting Started Guide on mahealthconnector.org): <https://betterhealthconnector.com/immigration-document-types> (last visited 10-19-15)

National

National Immigration Law Center, information about immigrants and access to public benefits: <http://nilc.org/access-to-bens.html> (last visited 10-19-15)

Send questions or comments to Vicky Pulos, vpulos@mlri.org, 617-357-0700 Ext. 318. For other MLRI papers related to Understanding the Affordable Care Act visit the health section of www.masslegalservices.org