130 CMR 515.000: MASSHEALTH: GENERAL POLICIES

Section

515.001: Definition of Terms
515.002: Introduction to MassHealth
515.003: MassHealth Coverage Types
515.004: Administration of MassHealth
515.005: Receiving Public Assistance from Another State
515.007: Rights of Applicants and Members
515.008: Responsibilities of Applicants and Members
515.009: Referrals to Investigative Units
515.011: Estate Recovery
515.012: Real Estate Liens
515.013: Voter Registration
515.014: Long-term-care Insurance Minimum Coverage Requirements for MassHealth Exemptions
515.015: Reimbursement of Certain Out-of-pocket Medical Expenses
515.016: Severability

515.001: Definition of Terms

The terms listed in 130 CMR 515.001 have the following meanings for purposes of MassHealth, as described in 130 CMR 515.000 through 522.000: *MassHealth: Other Division Programs*.

Activities of Daily Living (ADLs). Self-care activities including, but not limited to, bathing, grooming, dressing, eating, and toileting.

Affidavit. A written or printed statement of fact sworn to or affirmed before a person having legal authority to administer such an oath.

American Indian or Alaska Native. A person who

(1) is a member of a federally recognized tribe, band, or group as defined in Title 25 of the U.S.C.;

(2) is an Eskimo, Aleut, or other Alaska Native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act at 43 U.S.C. 1601; or

(3) has been determined eligible to receive healthcare services from Indian Health Care Providers as an Indian pursuant to 42 CFR § 136.12 or Title V of the Indian Health Care Improvement Act.

Annuity. A legal instrument that makes payments for a designated period of time or for life, regardless of whether the payments are principal, interest, or both.

Appeal. A written request, by an aggrieved applicant or member, for a fair hearing.

Appeal Representative. A person who

(1) is sufficiently aware of the appellant's circumstances to assume responsibility for the accuracy of the statements made during the appeal process and has provided the Office of Medicaid Board of Hearings with written authorization from the appellant to act on the appellant's behalf during the appeal process;

(2) has, under applicable law, authority to act on behalf of an appellant in making decisions related to healthcare or payment for healthcare. Appeal representatives may include, but are not limited to, guardians, conservators, executors, administrators, holders of power of attorney, or healthcare proxies;

(3) is a licensed attorney who notifies the MassHealth Board of Hearings that they represent the appellant in an appeal. This shall also include a nonlawyer supervised by a licensed attorney; or

(4) is an authorized representative meeting the requirements of 130 CMR 501.001: Appeal Representative (1), (2), or (3).

515.001: continued

Applicant. A person who completes and submits an application for MassHealth and is awaiting the decision of eligibility.

Application. *See* Senior Application.

Asset Limit. The maximum dollar value of assets that can be owned by, or available to, the applicant, the member, or their spouse, which, if exceeded, results in ineligibility.

Assets. Property including, but not limited to, real estate, personal property, and funds. This term has the same meaning as resources as defined in 42 U.S.C. 1396p(e)(5).

Authorized Representative

(1) A person or organization designated as the authorized representative of an applicant or member in a completed, signed Authorized Representative Designation Form, or similar designation document submitted to the MassHealth agency, in which the authorized representative agrees to comply with rules regarding confidentiality in the course of representing the applicant or member, provided that such person or organization must satisfy one of the following criteria:

(a) an authorized representative may be a person or organization appointed by the applicant or member to act responsibly on their behalf in connection with the eligibility process and other ongoing communications with the MassHealth agency. Such person or organization shall have the authority to complete and sign an application on the applicant's behalf; select a health plan; complete and sign a renewal form; receive copies of the applicant or member's notices and other communications from the MassHealth agency that may include protected healthcare information, personal data, and financial information, and, unless otherwise specified, act on behalf of the applicant or member in all other matters with the MassHealth agency or the Health Connector;

(b) an authorized representative may be a person acting responsibly on behalf of the applicant or member who is sufficiently aware of such applicant's or member's circumstances to assume responsibility for the accuracy of the statements made on their behalf during the eligibility process and in other communications with the MassHealth agency. Such person shall have the authority to complete and sign an application on the applicant's behalf; select a health plan; complete and sign a renewal form; and receive copies of the applicant or member's notices and other communications from the MassHealth agency that may include protected healthcare information, personal data, and financial information; or

(c) an authorized representative may be a person acting responsibly on behalf of the applicant or member who has, under applicable law, authority to act on behalf of such applicant or member in making decisions related to healthcare or payment for healthcare, including, but not limited to, a guardian, conservator, executor, administrator, holder of power of attorney, or healthcare proxy. The extent of such person's authority to act on behalf of the applicant or member is determined by the applicable law or underlying legal document; and

(2) As a condition of any organization serving as an authorized representative under 130 CMR 515.001: Authorized Representative (1)(a), a provider, staff member, or volunteer of such organization must not have a conflict of interest and must affirm that they will adhere to 42 CFR part 431, subpart F.

Blindness. A visual impairment as defined in Title XVI of the Social Security Act. Generally, "blindness" means visual acuity with correction of 20/200 or less in the better eye, or a peripheral field of vision contracted to a 10° radius or less regardless of the visual acuity.

Burial Trust. A trust established by an individual solely for funeral expenses, burial expenses, or both.

Business Day. Any day during which the MassHealth agency's offices are open to serve the public.

515.001: continued

Caretaker Relative. An adult who is the primary caregiver for a child; is related to the child by blood, adoption, or marriage; or is a spouse or former spouse of one of those relatives, and who lives in the same home as that child, provided that neither parent is living in the home.

Case File. The collection of written documents and electronic information required to determine eligibility and to provide benefits to applicants and members.

Certified Application Counselor (CAC). An individual who is certified by the MassHealth agency and the Connector to provide assistance in completing applications and renewal forms.

Citizen. *See* 130 CMR 518.002: *U.S. Citizens*.

Commonwealth Health Insurance Connector Authority, Health Connector, or Connector. The entity established pursuant to M.G.L. c. 176Q, § 2.

Community Resident. A person who lives in a noninstitutional setting in the community.

Competent Medical Authority. A physician or psychiatrist licensed by any state, a psychologist licensed by the Commonwealth of Massachusetts, or both.

ConnectorCare. The program administered by the Health Connector pursuant to M.G.L. c. 176Q to provide premium assistance payments and point-of-service cost-sharing subsidies to eligible individuals enrolled in health plans.

Countable Income. The types of income that are considered in the determination of eligibility.

Countable-income Amount. Gross income less certain business expenses and income deductions.

Couple. Two persons married to each other according to the laws of the Commonwealth of Massachusetts.

Coverage Start Date (or Start Date of Coverage). The date medical coverage begins.

Coverage Type. A scope of medical services, other benefits, or both that is available to members who meet specific eligibility criteria. MassHealth coverage types include the following: MassHealth Standard (Standard), MassHealth Limited (Limited), MassHealth Family Assistance (Family Assistance), MassHealth Senior Buy-in (Senior Buy-in), and MassHealth Buy-in (Buy-in). The scope of services or covered benefits for each coverage type is found at 130 CMR 450.105: *Coverage Types*.

Curing of a Transfer. The return following the transfer for less than fair market value of a portion, or the full uncompensated value, of a resource to the individual.

Day. A calendar day, unless a business day is specified.

Deductible. The total dollar amount of incurred medical expenses that an applicant whose income exceeds MassHealth income standards must be responsible for before the applicant is eligible for MassHealth, as described at 130 CMR 520.028: *Eligibility for a Deductible*.

Deductible Period. A specified six-month period within which an applicant for MassHealth whose income exceeds MassHealth income standards may become eligible through incurred and/or paid medical expenses equaling or exceeding the deductible of the applicant or their spouse.

515.001: continued

Disability Evaluation Services. A unit that consists of physicians and disability evaluators who determine permanent and total disability of an applicant or member seeking coverage under a MassHealth program for which disability is a criterion, using criteria established by the Social Security Administration (SSA) under Title XVI and criteria established under state law. This unit may be a part of a state agency or under contract with a state agency.

Disabled. Having a permanent and total disability as defined in Title XVI of the Social Security Act.

Eligibility Process. Activities conducted for the purpose of determining, redetermining, and maintaining the eligibility of a MassHealth applicant or member.

Fair Hearing. An administrative, adjudicatory proceeding conducted according to 130 CMR 610.000: *MassHealth: Fair Hearing Rules* to determine the legal rights, duties, benefits, or privileges of applicants and members.

Fair Market Value. An estimate of the value of a resource if sold at the prevailing price. For transferred resources, the fair market value is based on the prevailing price at the time of transfer.

Family Group. A family, couple, or individual.

Federal Poverty Level (FPL). Income standards issued annually in the *Federal Register* to account for the last calendar year's increase in prices as measured by the Consumer Price Index. The MassHealth agency within its discretion updates the FPL standards accordingly each year in March.

Fee-for-service. A method of paying for medical services provided by any MassHealth participating provider with no limit on provider choice.

Global Developmental Skills. A child's average developmental skill level, taking into account the physical, psychological, motor, intellectual, emotional, communicative, and social aspects of the child's functional capabilities.

Grantor. An individual or spouse who creates a trust.

Gross Income. The total money earned or unearned, such as wages, salaries, rents, pensions, or interest, received from any source without regard to deductions.

Guardian. An individual or entity appointed as guardian by the Probate and Family Court under the provisions of M.G.L. c. 201.

Guardianship Fees and Related Expenses. Fees for guardianship services and incurred expenses that are essential to enable an incompetent applicant or member to gain access to or consent to medical treatment.

Health Insurance. Coverage of healthcare services by a health-insurance company, a hospital-service corporation, a medical-services corporation, a managed care organization, or Medicare. Coverage of healthcare services by MassHealth, Health Safety Net, or Children's Medical Security Plan (CMSP) is not considered health insurance.

Health Safety Net (HSN). A source of funding for certain healthcare under 101 CMR 613.00: *Health Safety Net Eligible Services* and 101 CMR 614.00: *Health Safety Net Payments and Funding*.

Incarceration. The confinement in a penal institution of an individual. An individual is not incarcerated if they are on parole, probation, or home release and do not return to the institution for overnight stays.

515.001: continued

Income Deductions. Specified deductions, as described in 130 CMR 520.011 through 520.014, that may be made from the gross income of an applicant or member.

Incompetent Applicant or Member. An applicant or member who has been adjudicated as incompetent and in need of a guardian by the Probate and Family Court under the provisions of M.G.L. c. 201.

Institution (Medical). A public or private facility providing acute, chronic, or long-term care, unless otherwise defined within 130 CMR 515.000 through 522.000. This includes acute inpatient hospitals, licensed nursing facilities, state schools, intermediate-care facilities for the mentally retarded (ICF-MRs), public or private institutions for mental diseases, freestanding hospices, and chronic-disease and rehabilitation hospitals.

Institutionalization. Placement of an individual in one or more medical institutions, where placement lasts or is expected to last for a continuous period of at least 30 days.

Interpreter. A person who translates for an applicant or member who has limited English proficiency or a hearing impairment.

Irrevocable Trust. A trust that cannot be in any way revoked by the grantor.

Jointly Held Resources. Resources that are owned by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement.

Lawfully Present Immigrants. *See* 130 CMR 518.003(A): *Lawfully Present Immigrants*.

Life Estate. An estate established when all of the remainder legal interest in a property is transferred to another, while the legal interest for life rights to use, occupy, or obtain income or profits from the property is retained.

Limited English Proficiency. Persons who are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in English.

Look-back Period. A period of consecutive months that the MassHealth agency may review for transfers of resources to determine if a period of ineligibility for payment of nursing-facility services should be imposed.

Lump-sum Payment. A one-time-only payment that represents either a windfall payment or the accumulation of recurring countable income, such as retroactive unemployment compensation or federal veterans' retirement benefits.

MassHealth Agency. The Executive Office of Health and Human Services in accordance with the provisions of M.G.L. c. 118E.

Medical Benefits. Payment for medical services provided to a MassHealth member.

Member. A person determined by the MassHealth agency to be eligible for MassHealth.

Navigator. An individual who is certified by the Health Connector to assist an applicant with electronic and paper applications to establish eligibility and enroll in coverage through the Health Connector. In addition, a navigator provides outreach and education about insurance options offered through the Health Connector.

Nonqualified Individuals Lawfully Present. *See* 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*.

Nonqualified Person Residing under Color of Law (nonqualified PRUCOL). *See* 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*.

515.001: continued

Nursing-facility Resident. An individual who is a resident of a nursing facility; is a resident in any institution, including an ICF/MR, for whom payment is based on a level of care equivalent to that received in a nursing facility; is in an acute hospital awaiting placement in a nursing facility; or lives in the community and would be institutionalized without community-based services provided in accordance with 130 CMR 519.007(B): *Home- and Community-based Services Waiver – Frail Elder*.

Other Noncitizens. *See* 130 CMR 518.003(D): *Other Noncitizens*.

Patient-paid Amount. The amount that a member in a long-term-care facility must contribute to the cost of care under the laws of the Commonwealth of Massachusetts.

Period of Ineligibility. The period of time during which the MassHealth agency denies or withholds payment for nursing-facility services because the individual has transferred resources for less than fair market value.

Permanent and Total Disability. A disability as defined under Title XVI of the Social Security Act or under applicable state laws.

(1) For Adults and 18-year-olds

(a) The condition of an individual 18 years of age or older who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that

1. can be expected to result in death; or
2. has lasted or can be expected to last for a continuous period of not less than 12 months.

(b) For purposes of 130 CMR 515.001: Permanent and Total Disability, an individual 18 years of age or older is determined to be disabled only if their physical or mental impairments are of such severity that the individual is not only unable to do their previous work, but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives, whether a specific job vacancy exists, or whether the individual would be hired if they applied for work. "Work that exists in the national economy" means work that exists in significant numbers, either in the region where such an individual lives or in several regions of the country.

(2) For Children Younger than 18 Years Old. The condition of an individual younger than 18 years old who has any medically determinable physical or mental impairment, or combination of impairments, that causes marked and severe functional limitations, as defined in Title XVI of the Social Security Act, and can be expected to cause death or can be expected to last for a continuous period of not less than 12 months. Disability for children eligible for CommonHealth under 130 CMR 519.012(B): *Certain Disabled Institutionalized and Immigrant Children Who Are Noncitizens* is determined in accordance with the definition for permanent and total disability for children younger than 18 years old in 130 CMR 501.001: *Definition of Terms*.

Personal Needs Allowance (PNA). The designated portion of monthly income that a person in long-term care is allowed to retain for personal expenses. In some instances, the MassHealth agency pays all or a portion of the PNA to the member. The PNA must not be used for payment of any item included in the daily rate at the long-term-care facility.

Personal Needs Allowance (PNA) Account. An account administered by a long-term-care facility on behalf of a member. Regulations regarding the administration of PNA accounts are contained in 130 CMR 456.601 through 456.615.

Pooled Trust. A trust that meets all the following criteria as determined by the MassHealth agency.

515.001: continued

(1) The trust was created by a nonprofit organization.
(2) A separate account is maintained for each beneficiary of the trust, but the assets of the trust are pooled for investment and management purposes.
(3) The account in a pooled trust was created for the sole benefit of the individual by the individual, the individual's parents or grandparents, or a legal guardian or court acting on behalf of the individual.
(4) The trust provides that the Commonwealth of Massachusetts will receive amounts remaining in the account upon the death of the individual up to the amount paid by the MassHealth agency for services to the individual. The trust may retain reasonable and appropriate amounts as determined by the MassHealth agency.
(5) The individual was disabled at the time their account in the pool was created.

Premium Tax Credit. Payment made pursuant to 26 U.S.C. § 36B on behalf of an eligible individual to reduce the costs of a health benefit plan premium to the individual.

Promissory Note. A written promise to pay another.

Protected Noncitizens. *See* 130 CMR 518.003(B): *Protected Noncitizens*.

Qualified Health Plan (QHP). A health plan licensed under M.G.L. chs. 175, 176A, 176B, or 176G that has received the Commonwealth Health Insurance Connector's Seal of Approval as meeting the criteria under 45 CFR § 155.1000 and is offered through the Health Connector in accordance with the provisions of 45 CFR § 155.1010.

Qualified Noncitizens. *See* 130 CMR 518.003(A)(1): *Qualified Noncitizens*.

Qualified Noncitizens Barred. *See* 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*.

Quality Control. A system of continuing review to measure the accuracy of eligibility decisions.

Reapplication. The MassHealth agency's reopening of the application process when the application has been denied pursuant to 130 CMR 516.001(C): *Receipt of Corroborative Information*.

Redetermination. A review of a member's circumstances to establish whether they remain eligible for benefits.

Resources. All income and assets owned by the individual or their spouse. For the purposes of determining eligibility, resources include income and assets to which the individual or spouse is, or would be, entitled whether or not they are actually received. This term has the same meaning as assets as defined in 42 U.S.C. § 1396p(e)(1).

Reverse Mortgage. A loan on the equity value of a house paid in installments by a lender to the homeowner who is 60 years of age or older.

Revocable Trust. A trust whose terms allow the grantor to take action to regain any of the property or funds in the trust.

Senior Application or Application. The request for health benefits for an individual who is 65 years of age and older, or not living in the community, that is received by the MassHealth agency and includes all required information and a signature by the applicant or their authorized representative.

Senior Care Organization. An organization that participates in MassHealth under a contract with the MassHealth agency and Centers for Medicare & Medicaid Services to provide a comprehensive network of medical, healthcare, and social-service providers that integrates all components of care, either directly or through subcontracts. Senior care organizations are responsible for providing enrollees with the full continuum of Medicare- and MassHealth-covered services.

515.001: continued

Skilled-nursing Services. The planning, provision, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only services that must be provided by a registered nurse, a licensed practical nurse, or a licensed vocational nurse.

Special-needs Trust. A trust that meets all the following criteria as determined by the MassHealth agency.

(1) The trust was created for a disabled individual younger than 65 years old.

(2) The trust was created for the sole benefit of the individual by their parent, grandparent, or legal guardian or a court.

(3) The trust provides that the Commonwealth of Massachusetts will receive amounts remaining in the account upon the death of the individual up to the amount paid by the MassHealth agency for services to the individual.

(4) When the member has lived in more than one state, the trust must provide that the funds remaining upon the death of the member are distributed to each state in which the member received Medicaid based on each state's proportionate share of the total amount of Medicaid benefits paid by all states on the member's behalf.

Spouse. A person married to the applicant or member according to the laws of the Commonwealth of Massachusetts.

Stream of Income. Income received on a regular basis.

Substantial Gainful Activity. Generally, employment that provides a set amount of gross earnings as determined by the SSA under Title XVI of the Social Security Act.

Supplemental Security Income (SSI) Program. A program that provides financial assistance to needy persons who are 65 years of age or older, blind, or disabled. This program is established under Title XVI of the Social Security Act and is administered by the SSA. Such persons automatically receive MassHealth.

Tax Dependent. A qualifying child or qualifying relative, other than the taxpayer or spouse, who entitles the taxpayer to claim a dependency exemption. An individual who files a return but is claimed as a dependent by someone else is still a tax dependent.

Tax Filer. Any individual, including their spouse if married filing jointly, who intends to file a federal tax return for the year in which a member of the tax household is seeking or receives benefits and who claims an exemption for themselves. An individual who files a return but is claimed as a dependent by someone else is still a tax dependent.

Tax Household. All members who are claimed on the tax return, including the tax filer(s) and all dependents.

Third Party. Any individual, entity, or program that is or may be responsible for paying all or part of the expenditures for medical benefits.

Trust. A legal device satisfying the requirements of state law that places the legal control of property or funds with a trustee. It also includes, but is not limited to, any legal instrument, device, or arrangement that is similar to a trust, including transfers of property by a grantor to an individual or a legal entity with fiduciary obligations so that the property is held, managed, or administered for the benefit of the grantor or others. Such arrangements include, but are not limited to, escrow accounts, pension funds, and similar devices as managed by an individual or entity with fiduciary obligations.

Trustee. Any individual or legal entity that holds or manages a trust.

515.001: continued

Uncompensated Value. The difference between the fair market value of the resource or interest in the resource at the time of transfer less any outstanding debts and the actual amount the individual received for the resource. The MassHealth agency uses the uncompensated value in the calculation of the period of ineligibility.

515.002: Introduction to MassHealth

(A) The MassHealth agency is responsible for the administration and delivery of healthcare services to low- and moderate-income individuals and couples.

(B) 130 CMR 515.000 through 522.000 provide the MassHealth requirements for persons who are institutionalized, are 65 years of age or older, or would be institutionalized without community-based services in accordance with all applicable laws, including Title XIX of the Social Security Act.

(C) 130 CMR 501.000 through 508.000 provide the MassHealth requirements for children, young adults, parents and caretaker relatives, adults, pregnant people, disabled persons, persons who are HIV positive, individuals with breast or cervical cancer, and certain other individuals or couples who are younger than 65 years old and not institutionalized. These requirements are prescribed in accordance with all applicable laws, including Title XIX and Title XXI of the Social Security Act and MassHealth's 1115 Medicaid Research and Demonstration Waiver.

(D) The MassHealth agency will determine eligibility for low-income subsidies under Medicare Part D, as set forth in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and as described at 20 CFR Part 418.

515.003: MassHealth Coverage Types

(A) The MassHealth agency provides access to healthcare by determining eligibility for the coverage type that provides the most comprehensive benefits for a person who may be eligible. Generally, members are provided with services on a fee-for-service basis as defined at 130 CMR 515.001.

(B) The MassHealth agency offers the following types of coverage: Standard, Family Assistance, Limited, Senior Buy-in, and Buy-in. The type of coverage for which a person is eligible is based on the person's and the spouse's income and assets, as described in 130 CMR 519.000: *MassHealth: Coverage Types* and 130 CMR 520.000: *MassHealth: Financial Eligibility*, and immigration status, as described in 130 CMR 518.000: *MassHealth: Citizenship and Immigration*.

(C) The MassHealth agency may limit the number of people who can be enrolled in Family Assistance. When the MassHealth agency imposes such a limit, no new applicants 65 years of age or older who are subject to these limitations will be added to Family Assistance, and current Family Assistance members who have lost eligibility for more than 30 days for any reason will not be allowed to reenroll until the MassHealth agency reopens enrollment for adults.

(1) Applicants who cannot be enrolled under Family Assistance pursuant to 130 CMR 515.003(C) will be placed on a waiting list when their eligibility has been determined. When the MassHealth agency is able to open enrollment for adult applicants, the applications will be processed in the order they were placed on the waiting list.

(2) Medical coverage for Family Assistance for persons enrolled from a waiting list will begin on the date that the application or new determination is processed from the waiting list.

515.004: Administration of MassHealth

(A) MassHealth. The MassHealth agency formulates requirements and determines eligibility for all MassHealth coverage types.

515.004: continued

(B) Other Agencies.

(1) Department of Transitional Assistance (DTA).

(a) DTA administers the Transitional Aid to Families with Dependent Children (TAFDC) Program. Persons who meet the requirements of § 1931 of Title XIX (42 U.S.C. § 1396u-1) are automatically eligible for Standard coverage.

(b) DTA also administers the Emergency Aid to the Elderly, Disabled and Children (EAEDC) Program. MassHealth provides coverage to those persons receiving EAEDC cash assistance as follows:

1. MassHealth Standard: children younger than 19 years old; young adults 19 and 20 years old who are citizens, qualified noncitizens, qualified noncitizens barred, or nonqualified individuals lawfully present; parents and caretakers who are citizens or qualified noncitizens; people 65 years of age or older who are citizens or qualified noncitizens; and adults 21 through 64 years old who are citizens or qualified noncitizens;

2. MassHealth CarePlus: adults 21 through 64 years old who are citizens or qualified noncitizens; and

3. MassHealth Family Assistance: children younger than 19 years old; young adults 19 and 20 years old who are nonqualified persons living under color of law (PRUCOLs); parents and caretakers who are qualified noncitizens barred; nonqualified individual lawfully present; nonqualified PRUCOLs; adults 21 through 64 years old; and elders 65 years of age or older who are qualified noncitizens barred, nonqualified individual lawfully present, or nonqualified PRUCOLs, including PRUCOLs receiving EAEDC.

(2) Social Security Administration (SSA). The SSA administers the Supplemental Security Income (SSI) Program and determines the eligibility of persons 65 years of age or older. Persons receiving SSI who are 65 years of age or older are automatically eligible for Standard coverage.

(3) Health Connector. The Health Connector is Massachusetts's health insurance marketplace where individuals, families, and small businesses can shop among qualified health insurance carriers and choose a health insurance plan. The Health Connector administers qualified health plans (QHPs), premium tax credits, and the ConnectorCare Program. The single, streamlined application is used to determine eligibility for both Health Connector and MassHealth programs as described in 130 CMR 516.000: *MassHealth: The Eligibility Process*. The Health Connector and MassHealth also coordinate eligibility notices and eligibility appeals.

515.005: Receiving Public Assistance from Another State

Persons who are receiving public assistance from another state are not eligible for MassHealth.

515.007: Rights of Applicants and Members

The policies of the MassHealth agency are administered in accordance with federal and state law. Applicants and members must be informed of their rights and responsibilities with respect to MassHealth.

(A) Right to Nondiscrimination and Equal Treatment. The MassHealth agency does not discriminate on the basis of race, color, sex, sexual orientation, religion, national origin, disability, or age in admission or access to, or treatment or employment in, its programs or activities. Grievance procedures for resolution of discrimination complaints are administered and applied by the MassHealth agency's Affirmative Action Office.

(B) Right to Confidentiality. The confidentiality of information obtained by the MassHealth agency during the MassHealth eligibility process is protected in accordance with federal and state regulations. The use and disclosure of information concerning applicants, members, and legally liable third parties is restricted to purposes directly connected to the administration of MassHealth as governed by state and federal law.

515.007: continued

(C) Right to Timely Provision of Benefits. Eligible applicants and members have the right to the timely provision of benefits, as defined in 130 CMR 516.000: *MassHealth: The Eligibility Process*.

(D) Right to Information. Persons who inquire about MassHealth, either orally or through a written request, have the right to receive information about medical benefits, coverage type requirements, and their rights and responsibilities as applicants and members of MassHealth.

(E) Right to Apply. Any person, individually or through an authorized representative, has the right, and must be afforded the opportunity without delay, to apply for MassHealth.

(F) Right to Be Assisted by Others

(1) The applicant or member has the right to be accompanied by an appeal representative during the appeal process.

(2) An application for MassHealth may be filed by an authorized representative, including on behalf of a deceased person.

(3) An appeal of a MassHealth decision, including one brought on behalf of a deceased person, may be filed by an appeal representative, as defined in 130 CMR 515.001.

(4) The extent of the authorized representative's and appeal representative's authority to act on behalf of the applicant or member is determined by the applicant or member's delegation of authority, applicable law, or underlying legal document.

(G) Right to Inspect the MassHealth Case File. The applicant or member has the right to inspect information in their MassHealth case file and contest the accuracy of the information. The case file may include electronic records used to determine eligibility.

(H) Right to Appeal. The applicant or member has the right to appeal and request a fair hearing as the result of any adverse action or inaction taken by the MassHealth agency. The request will not be granted if the sole issue is a federal or state law requiring an automatic change adversely affecting members.

(I) Right to Interpreter Services. The MassHealth agency will inform applicants and members of the availability of interpreter services. Unless the applicant or member chooses to provide their own interpreter services, the MassHealth agency will provide either telephonic or other interpreter services whenever

(1) the applicant or member who is seeking assistance from the MassHealth agency has limited English proficiency or sensory impairment and requests interpreter services; or

(2) the MassHealth agency determines such services are necessary.

(J) Right to a Certificate of Creditable Coverage Upon Termination of MassHealth. The MassHealth agency provides a Certificate of Creditable Coverage to members whose coverage under Standard, CommonHealth, or Family Assistance has ended. The MassHealth agency issues a Certificate to members within one week of their MassHealth termination or within one week of the request for a Certificate, as long as the request is made within 24 months of the MassHealth termination. The Certificate may allow members to waive or reduce the length of preexisting-condition waiting periods when they enroll in a new health plan offered by other insurance. If a member's MassHealth termination also terminates the coverage of their dependents, the dependents are included on the Certificate.

515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

515.008: continued

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability.

(C) Cooperation with Quality Control. The MassHealth agency may periodically conduct an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the MassHealth agency. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

515.009: Referrals to Investigative Units

Intentional false statements or fraudulent acts made in connection with obtaining medical benefits or payments under MassHealth are punishable under M.G.L. c. 118E, § 39 by fines, imprisonment, or both. In all cases of suspected fraud, MassHealth agency staff will make a referral to the Bureau of Special Investigations, or other appropriate agencies.

515.011: Estate Recovery

(A) Introduction

(1) The MassHealth agency will recover the amount of payment for medical benefits correctly paid from the estate of a deceased member. Recovery is limited to payment for all services provided

(a) while the member was 65 years of age or older, except on or after October 1, 1993, while the member was 55 years of age or older; and

(b) on or after March 22, 1991, while the member, regardless of age, was institutionalized and the MassHealth agency determined that the member could not reasonably be expected to return home.

(c) Effective for dates of death on or after December 31, 2016, MassHealth will offset the estate recovery claim by the total of any premiums paid to the MassHealth agency on behalf of the member when the member was 55 years of age or older.

(2) The estate includes all real and personal property and other assets in the member's probate estate.

(3) Notwithstanding 130 CMR 515.011(A)(1) and in accordance with 42 U.S.C. 1396p(b)(B), the MassHealth agency will not recover Medicare cost-sharing benefits described at 42 U.S.C. 1396(a)(10)(E) with dates of payment on or after January 1, 2010, for persons who received such benefits under 130 CMR 505.002: *MassHealth Standard*, 505.007: *Medicare Savings Program (MSP, also called Buy-in)*, 130 CMR 519.010: *Medicare Savings Program (MSP) – Qualified Medicare Beneficiaries (QMBs)*, or 130 CMR 519.011: *Medicare Savings Program (MSP) – Specified Low-income Medicare Beneficiaries (SLMBs) and Qualifying Individuals (QIs)*.

(a) The date of payment for Medicare cost-sharing deductibles, coinsurance, and copayments is the date the MassHealth agency received the claim.

(b) The date of payment for premium payments is the date the MassHealth agency paid the premium.

(B) Exceptions

(1) Long-term-care Insurance Exception. No recovery for nursing facility or other long-term-care services may be made from the estate of any person who meets the following requirements.

(a) The member was institutionalized; and

(b) The member notified the MassHealth agency that they had no intent of returning home; and

(c) On the date of admission to the long-term-care institution, the member had long-term-care insurance that, when purchased or at any time thereafter, met the requirements of 130 CMR 515.014 and the Division of Insurance regulations at 211 CMR 65.09(1)(e)2.

515.011: continued

(2) Cost Effectiveness Exception. Effective for dates of death on or after May 14, 2021, in probate estates of members where the probate petition certifies under the penalties of perjury that the total assets in a member's estate are valued at $25,000 or less, MassHealth has determined that it is not cost effective to pursue recovery. In such estates, MassHealth waives its right to recovery and will not file a claim or otherwise pursue recovery. MassHealth reserves the right to file a claim and recover in such estates if probate filings do not sufficiently identify the value of the estate or if later probate filings or proceedings or investigation identify or establish that the total assets in the estate exceed $25,000.00.

(C) Deferral of Estate Recovery. Recovery will not be required until after the death of a surviving spouse, if any, or while there is a surviving child who is younger than 21 years old or a child of any age who is blind or permanently and totally disabled.

(D) Waiver of Estate Recovery Due to Undue Hardship. The MassHealth agency will waive its estate recovery claim if the agency determines that satisfaction of the claim would cause an undue hardship. An undue hardship does not exist solely because recovery will prevent any heir from receiving an anticipated inheritance. The duly court-appointed personal representative or public administrator of the deceased member's probate estate may apply for a waiver of estate recovery due to undue hardship. The application for a waiver and supporting documents must be received by the MassHealth agency within 60 days of the agency's notice of claim. The types of waiver of estate recovery due to undue hardship are as follows.

(1) Waiver of Estate Recovery Due to Residence and Financial Hardship.

(a) For notice of claims presented on or after November 15, 2003, but before May 14, 2021, recovery will be waived if MassHealth determines all of the following conditions have been met.

1. a sale of real property would be required to satisfy a claim against the member's probate estate; and

2. an individual who was using the property as a principal place of residence on the date of the member's death meets all of the following conditions:

a. the individual lived in the property on a continual basis for two years prior to the member's admission to an institution, or death, and continues to live in the property at the time the MassHealth agency first presented its claim for recovery against the deceased member's estate;

b. the individual has inherited or received an interest in the property from the deceased member's estate as defined in 130 CMR 501.013(A)(2) and 130 CMR 515.011(A)(2);

c. the individual is not being forced to sell the property by other devisees or heirs at law; and

d. at the time the MassHealth agency first presented its claim for recovery against the deceased member's estate, the gross annual income of the individual's family group was less than or equal to 133% of the applicable federal-poverty-level income standard for the appropriate family size.

3. The waiver will be conditional for a period of two years from the date the MassHealth agency mails notice that the waiver requirements have been met, or from the date that a court of competent jurisdiction determines that the waiver requirements have been met. If, at the end of that period, all circumstances and conditions that must exist for the MassHealth agency to waive recovery still exist, including meeting the same income standards under 130 CMR 515.011(D)(1)(a)2.d., and the real property has not been sold or transferred, the waiver will become permanent and binding. If, at any time during the two-year period, the circumstances and conditions for the waiver no longer exist, including meeting the same income standards under 130 CMR 515.011(D)(1)(a)2.d.; the property is sold or transferred; or the individual does not use the property as their primary residence, the MassHealth agency will be notified and its claim may be payable in full.

515.011: continued

(b) For claims presented on or after May 14, 2021, and upon application of a waiver of estate recovery due to residence and undue hardship by the personal representative or public administrator of the estate, MassHealth will waive recovery without a conditional two-year waiting period provided the personal representative or public administrator establishes to the satisfaction of the MassHealth agency that all the criteria for a residence and undue hardship waiver in 130 CMR 515.011(D)(1)(a)1. and 2. are currently met.

(c) Any waivers arising out of notice of claims presented before May 14, 2021, that did not become permanent and binding pursuant to the two-year conditional requirements set forth in 130 CMR 515.011(D)(1)(a)3., and that had not been satisfied and were still subject to the two-year conditional requirements of 130 CMR 515.011(D)(1)(a)3 as of May 14, 2021, will become permanent and binding.

(2) Waiver of Estate Recovery Based on Care Provided. For claims presented on or after May 14, 2021, for an heir or devisee inheriting a legal interest in the deceased member's home, the MassHealth agency will waive estate recovery if the agency determines to its satisfaction that all of the following conditions have been met.

(a) the heir or devisee resided in the member's home on a continual basis for two years prior to the member's death or admission to an institution;

(b) during that time, the member needed, and the heir or devisee provided, a level of care that avoided the member's admission to a facility;

(c) the heir or devisee continues to live in the property at the time the notice of claim is filed;

(d) the heir or devisee was left an interest in the home under the member's will or inherited the property under the laws of intestacy;

(e) the heir is not being forced to sell the property by other devisees or heirs; and

(f) the property would have to be sold to satisfy the claim.

(3) Waiver of Estate Recovery Due to Financial Hardship Based on Income.

(a) For claims presented on or after May 14, 2021, the personal representative or public administrator of a member's estate may apply for a waiver of estate recovery due to financial hardship based on the income of an heir or heirs or devisee or devisees. If there are multiple heirs or devisees, the personal representative or public administrator must apply for an income-based waiver separately on behalf of each individual. To be considered a qualifying heir or devisee, the personal representative or public administrator of the estate must establish the following:

1. the qualifying heir or devisee is inheriting an interest in the member's estate under the member's probate estate; and

2. the family group of a qualifying heir or devisee has a gross income below 400% of the federal poverty level for the two-year period prior to the date the notice of claim is filed.

If MassHealth determines that both conditions have been met, the heir is considered a qualifying heir.

(b) MassHealth will waive recovery in an amount equal to the value of the qualifying heir's or devisee's interest in the estate up to a maximum of $50,000 per qualifying heir or devisee. If there is more than one qualifying heir or devisee in an estate, the total amount of the agency's estate recovery claim waived for qualifying heirs or devisees shall be limited to a total of $100,000.

(c) An estate with qualifying heirs or devisees, regardless of whether there are nonqualifying heirs, will be subject to estate recovery based on the lesser of the following:

1. the value of the estate remaining after deducting the amount waived from the total value of the estate for qualifying heirs and devisees; or

2. the amount of the MassHealth claim remaining after deducting the amount waived from the total value of the MassHealth claim.

(d) Example 1. The value of the estate is $400,000 and the MassHealth claim is $60,000. There are two heirs who qualify for the waiver, each with an interest in the

515.011: continued

estate of $50,000 or greater. There are also two heirs who do not qualify. In this example, the waived amount is $100,000 (50,000 + 50,000). After deducting the $100,000 waived amount from the estate, there is $300,000 left in the estate, but after deducting the $100,000 waived amount from the $60,000 MassHealth claim, there is nothing left in the MassHealth claim. The result is no estate recovery.

(e) Example 2. The value of the estate is $350,000 and the MassHealth claim is $500,000. There are two qualifying heirs, each with an interest in the estate of $50,000 or greater. There are also two nonqualifying heirs. In this example, the waived amount is $100,000 (50,000 + 50,000). After deducting the $100,000 waived amount from the estate, there is $250,000 left in the estate, and after deducting the $100,000 waived amount from the $500,000 MassHealth claim, there is $400,000 remaining in the MassHealth claim. In this example, MassHealth would recover $250,000, since it is less than $400,000.

(E) Outstanding Claims.

(1) For claims presented between April 1, 1995 and November 15, 2003, that are still outstanding, recovery will be waived if all requirements under the then-existing MassHealth regulations were met.

(2) For claims presented before April 1, 1995, a waiver for hardship did not exist.

(F) Fair Market Value and Equity Value. If there will be insufficient proceeds from the sale or transfer of the property to satisfy the MassHealth agency's claim in full from a property on which MassHealth has recorded a lien, the fair market value and equity value of all real property that is part of the deceased member's probate estate must be verified prior to the sale or transfer of said property.

(1) The personal representative or public administrator of the probate estate must verify the fair market value by sending to the MassHealth agency a copy of the most recent tax bill or the property tax assessment that was most recently issued by the taxing jurisdiction, provided that this assessment is not one of the following:

(a) a special-purpose tax assessment;

(b) based on a fixed-rate-per-acre method; or

(c) based on an assessment ratio or providing only a range.

(2) The personal representative or public administrator of the probate estate must also provide a comparable market analysis or a written appraisal of the property value from a knowledgeable source. Knowledgeable sources include the following: a licensed real-estate agent or broker; a real-estate appraiser; or an official of a bank, savings and loan association, or similar lending organization. The knowledgeable source must not have any real or apparent conflict-of-interest relationship with the estate.

(3) The MassHealth agency may also obtain an assessment from a knowledgeable source.

(G) Exemption of Certain Assets from Estate Recovery for American Indians and Alaska Natives.

(1) For notice of claims presented on or after July 1, 2009, and upon application for exemption of certain assets from estate recovery by the personal representative or public administrator of the member's estate, recovery from the following American Indians' and Alaska Natives' income, resources, and property will be waived:

(a) certain income and resources (such as interests in, and income derived from, tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations;

(b) ownership interest in trust and non-trust property, including real property and improvements

1. located on a reservation (any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act at 43 U.S.C. Chapter 33, and Indian allotments) or near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior; or

515.011: continued

2. for any federally recognized tribe not described in 130 CMR 515.011(G)(1)(b)1., located within the most recent boundaries of a prior federal reservation;

(c) income left as a remainder in an estate derived from property protected in 130 CMR 515.011(G)(1)(b), that was either collected by an Indian or by a tribe or tribal organization and distributed to Indians, as long as the individual can clearly trace it as coming from protected property;

(d) ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources, including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, or fish products, resulting from the exercise of federally protected rights and income either collected by an Indian or by a tribe or tribal organization and distributed to Indians derived from these sources as long as the individual can clearly trace it as coming from protected sources; or

(e) ownership interests in or usage rights to items not covered by 130 CMR 515.011(G)(1)(a) through (d) that have unique religious, spiritual, traditional, or cultural significance, or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(2) Protection of non-trust property described in 130 CMR 515.011(G)(1) is limited to circumstances when it passes from an Indian, as defined in the Indian Health Care Improvement Act at 25 U.S.C. c. 18, § 4, to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a tribe and non-Indians, such as spouses or stepchildren, whom their culture would nevertheless protect as family members, to a tribe or tribal organization, or to one or more Indians.

515.012: Real Estate Liens

(A) Liens. A real estate lien enables the MassHealth agency to recover the cost of medical benefits paid or to be paid on behalf of a member. Before the death of a member, the MassHealth agency will place a lien against any property in which the member has a legal interest, subject to the following conditions:

(1) per court order or judgment; or

(2) without a court order or judgment, if all of the following requirements are met:

(a) the member is an inpatient receiving long-term or chronic care in a nursing facility or other medical institution;

(b) none of the following relatives lives in the property:

1. a spouse;

2. a child younger than 21 years old, or a blind or permanently and totally disabled child; or

3. a sibling who has a legal interest in the property and has been living in the house for at least one year before the member's admission to the medical institution;

(c) the MassHealth agency determines that the member cannot reasonably be expected to be discharged from the medical institution and return home; and

(d) the member has received notice of the MassHealth determination that the above conditions have been met and that a lien will be placed. The notice includes the member's right to a fair hearing.

(B) Recovery. If property against which the MassHealth agency has placed a lien under 130 CMR 515.012(A) is sold, the MassHealth agency may recover all payment for services provided on or after April 1, 1995. This provision does not limit the MassHealth agency's ability to recover from the member's estate in accordance with 130 CMR 515.011.

(C) Exception. No recovery for nursing-facility or other long-term-care services may be made under 130 CMR 515.012(B) if the member

(1) was institutionalized;

(2) notified the MassHealth agency that they had no intention of returning home; and

(3) on the date of admission to a long-term-care institution, had long-term-care insurance that, when purchased or at any time thereafter, met the requirements of 130 CMR 515.014 and the Division of Insurance regulations at 211 CMR 65.09(1)(e)2.

515.012: continued

(D) Repayment Deferred.

(1) In the case of a lien on a member's home, repayment under 130 CMR 515.012 is not required while any of the following relatives are still lawfully living in the property:

(a) a sibling who has been living in the property for at least one year before the member's admission to the nursing facility or other medical institution; or

(b) a son or daughter who

1. has been living in the property for at least two years immediately before the member was admitted to a nursing facility or other medical institution;

2. establishes to the satisfaction of the MassHealth agency that they provided care that permitted the parent to live at home during the two-year period before institutionalization; and

3. has lived lawfully in the property on a continual basis while the parent has been in the institution.

(2) Repayment from the estate of a member that would otherwise be recoverable under any regulation is still required even if the relatives described in 130 CMR 515.012(D) are still living in the property.

(E) Dissolution. The MassHealth agency will discharge a lien placed against property under 130 CMR 515.012(A) if the member is released from the medical institution and returns home.

(F) Verification. The applicant or member must cooperate in providing verification as to whether the conditions under 130 CMR 515.012(A) exist and in providing any information necessary for the MassHealth agency to place a lien.

(G) Recording Fee. The MassHealth agency is not required to pay a recording fee for filing a notice of lien or encumbrance or for a release or discharge of a lien or encumbrance under 130 CMR 515.012.

515.013: Voter Registration

(A) Voter registration forms are available through the MassHealth agency to applicants and members who are

(1) US citizens; and

(2) 18 years of age or older or will be 18 years old on or before the date of the next election, in accordance with the National Voter Registration Act of 1993.

(B) Applicants and members are

(1) informed of the availability of voter registration forms at application, at the time of an eligibility review, and when there is an address change;

(2) offered assistance in completing the voter registration application form, unless such assistance is refused; and

(3) able to submit voter registration forms to the MassHealth agency for transmittal to the proper election offices.

(C) MassHealth agency staff members must not

(1) seek to influence an applicant's or member's political preference or party registration;

(2) display any political preference or party allegiance to the applicant or member;

(3) make any statement to an applicant or member or take any action intended to influence the applicant's or member's decision regarding voter registration; or

(4) make any statement to an applicant or member or take any action intended to lead the applicant or member to believe that the decision to register or not has any bearing on the availability of services or benefits.

(D) Completed voter registration application forms that are submitted to the MassHealth agency are transmitted to the proper local election office for processing within five days of receipt.

515.014: Long-term-care Insurance Minimum Coverage Requirements for MassHealth Exemptions

For purposes of the financial eligibility exemption under 130 CMR 520.007(G)(7)(d), concerning treatment of the former home as an asset, and the exemption under 130 CMR 515.011(B) and 515.012(C), concerning repayment of assistance provided for nursing facility and other long-term-care services (hereafter collectively referred to as "MassHealth exemptions"), a long-term-care insurance policy must provide certain minimum coverage requirements as determined by the Division of Insurance.

(A) Under Division of Insurance regulations at 211 CMR 65.09(1)(e)2., to qualify for the MassHealth exemptions, an individual must be a covered person under an individual, group, or employment-based group policy issued on or after March 15, 1999, that meets the individual policy minimum standards of 211 CMR 65.05: *Minimum Standards for Individual Policies* and all of the following requirements.

(1) Scope of Benefits. The policy must cover nursing and custodial care in a nursing facility licensed by the Department of Public Health.

(2) Daily Dollar Benefits. The policy must have available benefits of at least $125 per coverage day in a nursing facility, except where the actual expense incurred is less, regardless of whether accrued benefits are measured in terms of days or dollar amount.

(3) Nursing Facility Coverage Days: Lifetime Benefit Period. The policy must have benefits available sufficient to cover at least 730 days in a nursing facility.

(4) Elimination Period. No policy may have an elimination period (days on which services are provided to an insured before the policy begins to pay benefits) longer than 365 days in a nursing facility. The application of more than one elimination period is not allowed, unless the insured has received no benefits for a period of at least 180 consecutive days. In *lieu* of an elimination period, the policy may have a deductible of no more than $54,750.

(B) All policies issued prior to March 15, 1999, need only comply with the minimum standards of 211 CMR 65.05: *Minimum Standards for Individual Policies*, and the limitations and exclusion provision of 211 CMR 65.06: *Mandatory Benefit Offers for Individual Policies*, which were effective from April 1, 1989, through September 2, 1999.

(C) Exception. No recovery for nursing facility or other long-term-care services may be made under 130 CMR 515.012(B) if the member

(1) was institutionalized;

(2) notified the MassHealth agency that they had no intention of returning home; and

(3) on the date of admission to a long-term-care institution, had long-term-care insurance that, when purchased or at any time thereafter, met the requirements of 130 CMR 515.014 and the Division of Insurance regulations at 211 CMR 65.09(1)(e)2.

515.015: Reimbursement of Certain Out-of-pocket Medical Expenses

(A) Eligibility Requirements. The following Standard coverage members are entitled to reimbursement for certain medical expenses for which they paid, subject to the provisions of 130 CMR 515.015:

(1) an individual who

(a) applied for Supplemental Security Income (SSI);

(b) was denied SSI benefits by the Social Security Administration (SSA); and

(c) had their initial SSA denial overturned through a reconsideration process, administrative hearing, appeals counsel review, federal court review, or reopening under the SSA rules on administrative finality; or

(2) an individual who

(a) applied for MassHealth;

(b) was denied MassHealth; and

(c) had their initial denial overturned by a subsequent decision, MassHealth, the fair hearing process, or the judicial review process.

515.015: continued

(B) Limitations.

(1) Reimbursement is limited to bills incurred on or after the coverage start date for the applicable coverage type as described in 130 CMR 519.000: *MassHealth: Coverage Types* and paid between the date of the erroneous eligibility decision and the date on which the member is notified of MassHealth eligibility. The bill must have been paid by the member, the member's spouse, the parent of a member, or a legal guardian.

(2) Reimbursement is also limited to amounts actually paid for care or services that would have been covered under MassHealth had eligibility been determined correctly, even if these amounts exceed the MassHealth rate. Before reimbursing a member for care or services that would have required prior authorization, MassHealth may require submission of medical evidence for consideration under the prior-authorization standards. Reimbursement is available even if the medical care or services were furnished by a provider who does not participate in MassHealth.

(C) Verification.

(1) Applicants or members seeking reimbursement must provide MassHealth with

(a) a bill for medical services that includes

1. the provider's name;
2. a description of the services provided; and
3. the date the service was provided; and

(b) proof of payment of the bill presented, such as a canceled check or receipt.

(2) Recipients of SSI must also provide documents from the SSA establishing the date of application and the date of application denial.

515.016: Severability

The provisions of 130 CMR 515.000 are severable. If any provision of 130 CMR 515.000 or application of any provision to an applicable individual, entity, or circumstance is held invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 130 CMR 515.000 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

130 CMR 515.000: M.G.L. c. 118E.

NON-TEXT PAGE