



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
 www.mass.gov/masshealth



MassHealth
 Eligibility Letter 217
 November 15, 2016

TO: MassHealth Staff

FROM: Daniel Tsai, Assistant Secretary for MassHealth

RE: Eligibility Changes for Home- and Community-Based Services Waivers

MassHealth has revised its regulations at 130 CMR 519.000: *MassHealth Coverage Types* to modify how MassHealth treats a community spouse’s assets when determining the financial eligibility of a married individual seeking enrollment in a MassHealth 1915(c) Home- and Community Based Services (HCBS) waiver, and in accordance with changes in federal law implemented under Section 2404 of Affordable Care Act. Specifically, the proposed amendments would apply the financial eligibility requirements for the treatment of assets currently in use for institutionalized individuals with a community spouse to married individuals with a community spouse seeking enrollment in an HCBS waiver.

These regulations are effective December 2, 2016.

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- (4) The MassHealth agency pays the following costs for members eligible for MassHealth Standard who meet the requirements of 130 CMR 519.010(A)(1) and (2):
- (a) Medicare Part B premiums for members with countable income that is less than or equal to 120% of the federal poverty level;
 - (b) Medicare Part A premiums for adult members of MassHealth Standard who are entitled to Medicare Part A with a countable income that is less than or equal to 100% of the federal poverty level; and
 - (c) the deductibles and coinsurance under Medicare Parts A and B for members with a countable income that is less than or equal to 100% of the federal poverty level.

(B) Automatic Eligibility for SSI Recipients.

- (1) Individuals described in 130 CMR 519.002(A)(1) who meet basic, categorical, and financial requirements under the Supplemental Security Income (SSI) program are automatically eligible to receive MassHealth Standard coverage.
- (2) Eligibility for retroactive coverage must be established by the MassHealth agency in accordance with 130 CMR 516.005: *Coverage Date*.

(C) Extended Eligibility for SSI Recipients. An individual whose SSI assistance has been terminated, and who is determined to be potentially eligible for MassHealth, continues to receive MassHealth Standard coverage until a determination of ineligibility is made by the MassHealth agency.

(D) Automatic and Extended Eligibility for EAEDC Recipients 65 Years of Age and Older.

- (1) Automatic Eligibility. Individuals 65 year of age and older who meet the requirements of the Emergency Aid to the Elderly, Disabled and Children (EAEDC) program administered by the Department of Transitional Assistance and who are United States citizens as described in 130 CMR 518.002: *U.S. Citizens* or qualified noncitizens, as described in 130 CMR 518.003(A)(1): *Qualified Noncitizens*, are automatically eligible for MassHealth Standard benefits.
- (2) Extended Eligibility. Individuals described in 130 CMR 519.002(D)(1) whose EAEDC cash assistance ends will continue to receive MassHealth Standard benefits until the MassHealth agency determines that the member is ineligible.

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519.003: Pickle Amendment Cases

- (A) Eligibility Requirements. Under the Pickle Amendment, former SSI recipients whose income exceeds 100% of the federal poverty level are eligible for MassHealth Standard provided they
- (1) or their spouse or both are receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits;
 - (2) were eligible for and received SSI benefits after April 1977;
 - (3) would be currently eligible for SSI, in accordance with SSI payment standards at 130 CMR 519.003(B), if the incremental amount of RSDI cost-of-living increases paid to them since the last month subsequent to April 1977, for which they were both eligible for and receiving SSI and entitled to (but not necessarily receiving) RSDI were deducted from the current amount of RSDI benefits. Cost-of-living increases referred to in 130 CMR 519.003 include increases received by the applicant or member or by the spouse. The spouse need not be otherwise eligible for SSI; and
 - (4) have countable assets that are \$2,000 or less for an individual, and \$3,000 or less for a married couple.
- (B) SSI Payment Standards. The RSDI amount, as described in 130 CMR 519.003(A)(3), and any other countable-income amount, as defined in 130 CMR 520.009: *Countable-Income Amount*, of the individual or couple is compared to the SSI payment standards to determine Pickle eligibility. Each calendar year, the SSI Payment Standards shall be made available on MassHealth's website.
- (C) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards in 130 CMR 519.003 may establish eligibility by reducing assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described in 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

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519.004: Disabled Adult Children

(A) Eligibility Requirements. Individuals who lose eligibility for Supplemental Security Income (SSI) benefits may retain eligibility for MassHealth Standard provided that they

- (1) are 18 years old or older;
- (2) became blind or disabled before attaining the age of 22;
- (3) receive or received SSI based on their blindness or disability;
- (4) received an increase in child's insurance benefits under section 202(d) of the Social Security Act, or became entitled to those benefits on the basis of blindness or disability, on or after July 1, 1987;
- (5) lose or lost SSI as a result of this entitlement or increase in child's insurance benefits under section 202(d) of the Social Security Act; and
- (6) would still be eligible for SSI in the absence of such RSDI benefits or increase in benefits.

(B) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.004(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable-income amount, as defined in 130 CMR 520.009: *Countable-Income Amount*, of the individual or couple is less than or equal to 100% of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

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(C) Parents and Caretaker Relatives of Children Younger Than 19 Years Old.

(1) Eligibility Requirements. Adults who are 65 years of age and older and are the parents or caretaker relatives of a child younger than 19 years old receive MassHealth Standard if they meet the requirements of 130 CMR 505.002(C): *Eligibility Requirements for Parents and Caretaker Relatives* or (L): *Extended Eligibility*.

(2) Other Provisions. The following provisions apply to adults described in 130 CMR 519.005(C)(1) and 130 CMR 505.002(A)(6), (M): *Use of Potential Health Insurance Benefits*, (O): *Medicare Premium Payment*, and (P): *Medical Coverage Date*.

(3) Countable Income. Eligibility for adults described in 130 CMR 519.005(C)(1) is based on the individual's modified adjusted gross income of the MassHealth MAGI household and the income rules described at 130 CMR 506.002: *Household Composition*, 506.003: *Household Income*, and 506.004: *Noncountable Household Income*.

(4) Exemption from Asset Limits. The asset limits in 130 CMR 520.003: *Asset Limit* do not apply to applicants or members described in 130 CMR 519.005(C)(1).

519.006: Long-Term-Care Residents

(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must

(1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;

(2) be determined medically eligible for nursing-facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: *Long Term Care Services*;

(3) contribute to the cost of care as defined at 130 CMR 520.026: *Long-Term-Care General Income Deductions*;

(4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and

(5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

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(B) Verification of Disability or Pregnancy.

(1) Disability is verified by:

- (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
- (b) a determination of disability by the Social Security Administration (SSA); or
- (c) a determination of disability by the MassHealth Disability Determination Unit (DDU). Until this determination is made, the applicant's submission of a completed disability supplement will satisfy the verification requirement.

(2) Pregnancy is verified by a written statement from a competent medical authority certifying the pregnancy.

519.007: Individuals Who Would Be Institutionalized

130 CMR 519.007 describes the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home- and community-based services.

(A) The Kaileigh Mulligan Program. The Kaileigh Mulligan Program enables severely disabled children younger than 18 years old to remain at home. The income and assets of their parents are not considered in the determination of eligibility.

(1) Eligibility Requirements. Children younger than 18 years old may establish eligibility for the Kaileigh Mulligan Program by meeting the following requirements. They must

- (a) 1. meet Title XVI disability standards in accordance with the definition of permanent and total disability for children younger than 18 years old in 130 CMR 515.001: *Definition of Terms* or have been receiving SSI on August 22, 1996; and
- 2. continue to meet Title XVI disability standards that were in effect before August 22, 1996;
- (b) have \$2,000 or less in countable assets;
- (c) 1. have a countable-income amount of \$72.80 or less; or
- 2. if greater than \$72.80, meet a deductible in accordance with 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*; and
- (d) require a level of care equivalent to that provided in a hospital or nursing facility in accordance with 130 CMR 519.007(A)(3) and (4).

(2) Additional Requirements. The MassHealth agency must have determined

- (a) that care provided outside an institution is appropriate; and
- (b) that the estimated cost paid by the MassHealth agency would not be more than the estimated cost paid if the child were institutionalized.

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- (3) Level of Care That Must Be Required in a Hospital. To require the level of care provided in a hospital, the child must have a medical need for the following:
- (a) direct administration of at least two discrete skilled-nursing services (as defined in 130 CMR 515.001: *Definition of Terms*) on a daily basis, each of which requires complex nursing procedures, such as administration of intravenous hyperalimentation, changing tracheotomy tubes, assessment or monitoring related to an uncontrolled seizure disorder, assessment or monitoring related to an unstable cardiopulmonary status, or other unstable medical condition;
 - (b) direct management of the child's medical care by a physician or provided directly by someone who is under the supervision of a physician on at least a weekly basis;
 - (c) ongoing use of invasive medical technologies or techniques to sustain life (such as ventilation, hyperalimentation, gastrostomy tube feeding), or dialysis, or both; and
 - (d) at least one of the following:
 - 1. assistance in one or more activities of daily living (ADLs), as defined in 130 CMR 515.001: *Definition of Terms*, beyond what is required at an age-appropriate activity level; or
 - 2. one or more skilled therapeutic services (occupational therapy, physical therapy, or speech and language therapy), provided directly by or under the supervision of a licensed therapist at least five times a week.
- (4) Level of Care That Must Be Required in a Skilled-Nursing Facility. To require the level of care provided in a skilled-nursing facility, the child must be nonambulatory and meet the following requirements.
- (a) A child 12 months of age or older must have global developmental skills (as defined in 130 CMR 515.001: *Definition of Terms*) not exceeding those of a 12-month-old child as indicated by a developmental assessment performed by the child's physician or by another certified professional. In addition, the child's developmental skills level must not be expected to improve.
 - (b) A child less than 12 months of age must have global developmental skills significantly below an age-appropriate level and such skills must not be expected to progress at an age-appropriate rate as indicated by a developmental assessment performed by the child's physician or by another certified professional.

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- (c) Regardless of age, the child must also require all of the following:
 - 1. direct administration of at least two discrete skilled-nursing services on a daily basis, each of which requires complex nursing procedures as described at 130 CMR 519.007(A)(3);
 - 2. direct management of the child's medical care by a physician or provided directly by someone who is under the supervision of a physician on a monthly basis;
 - 3. assistance in one or more ADLs beyond what is required at an age-appropriate activity level; and
 - 4. any combination of skilled therapeutic services (physical therapy, occupational therapy, speech and language therapy) provided directly by or under the supervision of a licensed therapist at least five times a week.
- (5) Premium Assistance for Standard Kaileigh Mulligan. Individuals eligible for MassHealth Standard in 130 CMR 519.007(A) may be eligible for Premium Assistance if they meet the requirements described in 130 CMR 505.002(N): *Access to Employer-Sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Standard* and 506.012: *Premium Assistance Payments*.
- (B) Home- and Community-based Services Waiver–Frail Elder.
 - (1) Clinical and Age Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing-facility services to receive certain waiver services at home if he or she
 - (a) is 60 years of age or older and, if younger than 65 years old, is permanently and totally disabled in accordance with Title XVI standards; and
 - (b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home- and Community-Based Services Waiver-Frail Elder authorized under section 1915(c) of the Social Security Act.
 - (2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
 - (a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b);
 - (b) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual; and
 - (c) have countable assets of \$2,000 for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
 - (d) have not transferred resources for less than fair market value, as described at 130 CMR 520.018: *Transfer of Resources Regardless of the Transfer Date* and 520.019: *Transfer of Resources Occurring on or After August 11, 1993*.

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(3) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(B)(2) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or by both.

(C) Program of All-Inclusive Care for the Elderly (PACE).

(1) Overview. The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing-facility services living in the community.

(a) A complete range of health-care services is provided by one designated community-based program with all medical and social services coordinated by a team of health professionals.

(b) The MassHealth agency administers the program in Massachusetts as the Elder Service Plan (ESP).

(c) Persons enrolled in PACE have services delivered through managed care

1. in day-health centers;
2. at home; and
3. in specialty or inpatient settings, if needed.

(2) Eligibility Requirements. In determining PACE eligibility, the MassHealth agency counts the income and assets of only the applicant or member regardless of his or her marital status. The applicant or member must meet all of the following criteria:

(a) be 55 years of age or older;

(b) meet Title XVI disability standards if 55 through 64 years of age;

(c) be certified by the MassHealth agency or its agent to be in need of nursing-facility services;

(d) live in a designated service area;

(e) have medical services provided in a specified community-based PACE program;

(f) have countable assets whose total value does not exceed \$2,000 or, if assets exceed these standards, reduce assets in accordance with 130 CMR 520.004: *Asset Reduction*; and

(g) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual.

(3) Income Standards Not Met. Individuals whose income exceeds the standards set forth in 130 CMR 519.007(C)(2) may establish eligibility for MassHealth Standard by meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*.

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(D) Home- and Community-Based Services Waivers for Persons with an Intellectual Disability.

(1) Intensive Supports Waiver.

(a) Clinical and Age Requirements. The Intensive Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive residential habilitation and other specified waiver services if he or she meets all of the following criteria:

1. has an intellectual disability/developmental disability in accordance with Department of Developmental Services standards;
2. needs one or more of the services administered by the Department of Developmental Services under the Intensive Supports Home- and Community-based Services Waiver authorized under section 1915(c) of the Social Security Act;
3. needs 24/7 support either in a 24-hour supervised residential setting or in the family home as provided under the Intensive Supports Waiver; and
4. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must meet all of the following criteria:

1. meet the requirements of 130 CMR 519.007(D)(1)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Financial Eligibility Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(1)(b) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described in 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or by both.

(d) Enrollment Limits. Enrollment in the Intensive Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in the waiver may be limited in a manner determined by the MassHealth agency.

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(2) Community Living Waiver.

(a) Clinical and Age Requirements. The Community Living Home- and Community-based Services Waiver for Persons with an Intellectual Disability allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive certain waiver services, other than residential habilitation, at home or in the community provided he or she

1. has an intellectual disability/developmental disability in accordance with Department of Developmental Services standards;
2. needs one or more of the services administered by the Department of Developmental Services under the Community Living Home- and Community-Based Services Waiver authorized under section 1915(c) of the Social Security Act;
3. needs one or more of the services provided only under the Community Living Waiver; and
4. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must meet all of the following criteria:

1. meet the requirements of 130 CMR 519.007(D)(2)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Financial Eligibility Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(2)(b) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described in 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or by both.

(d) Enrollment Limits. Enrollment in the Community Living Home- and Community-Based Services Waiver for Persons with an Intellectual Disability is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in the waiver may be limited in a manner determined by the MassHealth agency.

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(3) Adult Supports Waiver.

(a) Clinical and Age Requirements. The Adult Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive certain waiver services, other than residential habilitation, at home or in the community provided he or she

1. has an intellectual disability/developmental disability in accordance with Department of Developmental Services standards;
2. needs one or more of the services administered by the Department of Developmental Services under the Adult Supports Home- and Community-Based Services Waiver authorized under section 1915(c) of the Social Security Act; and
3. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must meet all of the following criteria:

1. meet the requirements of 130 CMR 519.007(D)(3)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Financial Eligibility Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(3)(b) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described in 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or by both.

(d) Enrollment Limits. Enrollment in the Adult Supports Home- and Community-Based Services Waiver for Persons with an Intellectual Disability is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in the waiver may be limited in a manner determined by the MassHealth agency.

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- (E) Home- and Community-based Services Waiver for Young Children with Autism.
- (1) Clinical Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive certain waiver services at home or in the community provided he or she
- (a) has a confirmed diagnosis of an autism spectrum disorder (which includes autistic disorder, pervasive developmental disorder-not otherwise specified (PDD-NOS), Rhett's syndrome, childhood disintegrative disorder, and Asperger's syndrome);
 - (b) would be institutionalized in an intermediate-care facility for the intellectually disabled unless he or she receives one or more of the services administered by the Department of Developmental Services under the Home- and Community-Based Services Waiver authorized under section 1915(c) of the Social Security Act; and
 - (c) is able to be safely served in the community.
- (2) Eligibility Requirements and Limitations.
- (a) The applicant or member must be younger than nine years old.
 - (b) The child must be eligible for MassHealth Standard in accordance with 130 CMR 505.002(B)(1): *Children Younger Than One Year Old* and (2): *Children One through 18 Years of Age*.
 - (c) Assets are not considered in the eligibility determination.
 - (d) The number of children who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency or its agent.
- (F) Home- and Community-based Services Waiver for Persons with Traumatic Brain Injury.
- (1) Clinical and Age Requirements. The Home- and Community-based Services Waiver for Persons with Traumatic Brain Injury allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services or chronic or rehabilitation hospital services to receive specified waiver services in the home or community if he or she
- (a) is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
 - (b) has traumatic brain injury, as defined in Massachusetts Rehabilitation Commission (MRC) regulations at 107 CMR 12.02: *Meaning of Terms in 107 CMR 12.00*;
 - (c) needs one or more of the services administered by MRC under the Home- and Community-Based Services Waiver authorized under section 1915(c) of the Social Security Act; and
 - (d) is able to be safely served in the community.

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- (2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
- (a) meet the requirements of 130 CMR 519.007(F)(1);
 - (b) have a countable income amount that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
 - (c) have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
 - (d) have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (3) Enrollment Limits. Enrollment in this waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency or its agent.

(G) Home- and Community-based Services Waivers for Persons with Acquired Brain Injury.

- (1) Residential Habilitation Waiver for Persons with Acquired Brain Injury.
- (a) Clinical and Age Requirements. The Residential Habilitation Waiver for Persons with Acquired Brain Injury, as authorized under section 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services or chronic disease or rehabilitation hospital services to receive residential habilitation and other specified waiver services in a provider-operated 24-hour supervised residential setting if he or she meets all of the following criteria:
- 1. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
 - 2. acquired, after reaching the age of 22, a brain injury including, without limitation, brain injuries caused by external force, but not including Alzheimer's disease and similar neuro-degenerative diseases, the primary manifestation of which is dementia;
 - 3. is an inpatient in a nursing facility or chronic disease or rehabilitation hospital with a continuous length of stay of 90 or more days at the time of application for the waiver;
 - 4. needs a residential support service available under the Residential Habilitation Waiver; and
 - 5. is able to be safely served in the community within the terms of the Residential Habilitation Waiver.

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(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must

1. meet the requirements of 130 CMR 519.007 (G)(1)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Enrollment Limits. Enrollment in the Residential Habilitation Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.

(d) Waiver Services. Eligible members who are enrolled as waiver participants in the Residential Habilitation Waiver are eligible for the waiver services described in 130 CMR 630.405(A): *Acquired Brain Injury with Residential Rehabilitation (ABI-RH) Waiver*.

(2) Non-Residential Habilitation Waiver for Persons with Acquired Brain Injury.

(a) Clinical and Age Requirements. The Non-Residential Habilitation Waiver for Persons with Acquired Brain Injury, as authorized under section 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services or chronic disease or rehabilitation hospital services to receive specified waiver services, other than residential support services, in the home or community if he or she meets all of the following criteria:

1. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
2. acquired, after reaching age of 22, a brain injury including, without limitation, brain injuries caused by external force, but not including Alzheimer's disease and similar neuro-degenerative diseases, the primary manifestation of which is dementia;
3. is an inpatient in a nursing facility or chronic disease or rehabilitation hospital with a continuous length of stay of 90 or more days at the time of application for the waiver;

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4. needs one or more of the services under the Non-Residential Habilitation Waiver; and
 5. is able to be safely served in the community within the terms of the Non-Residential Habilitation Waiver.
- (b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
1. meet the requirements of 130 CMR 519.007 (G)(2)(a);
 2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
 3. have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
 4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Enrollment Limits. Enrollment in the Non-Residential Habilitation Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.
- (d) Waiver Services. Eligible members who are enrolled as waiver participants in the Non-Residential Habilitation Waiver are eligible for the waiver service described in 130 CMR 630.405(B): *Acquired Brain Injury Non-Residential Habilitation (ABI-N) Waiver*.
- (H) Money Follows the Person Home- and Community-based Services Waivers.
- (1) Money Follows the Person (MFP) Residential Supports Waiver.
 - (a) Clinical and Age Requirements. The MFP Residential Supports Waiver, as authorized under section 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital services to receive residential support services and other specified waiver services in a 24-hour supervised residential setting if he or she meets all of the following criteria:
 1. is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
 2. is an inpatient in a nursing facility, chronic disease or rehabilitation hospital, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital with a continuous length of stay of 90 or more days, excluding rehabilitation days;

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3. must have received MassHealth benefits for inpatient services, and be MassHealth eligible at least the day before discharge;
 4. must be assessed to need residential habilitation, assisted living services, or shared living 24-hour supports services within the terms of the MFP Residential Supports Waiver;
 5. is able to be safely served in the community within the terms of the MFP Residential Supports Waiver; and
 6. is transitioning to the community setting from a facility, moving to a qualified residence, such as a home owned or leased by the applicant or a family member, an apartment with an individual lease, or a community-based residential setting in which no more than four unrelated individuals reside.
- (b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
1. meet the requirements of 130 CMR 519.007 (H)(1)(a);
 2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
 3. have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
 4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Enrollment Limits. Enrollment in the MFP Residential Supports Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.
- (d) Waiver Services. Eligible members who are enrolled as waiver participants in the MFP Residential Supports Waiver are eligible for the waiver services described in 130 CMR 630.405(C): *Money Follows the Person Residential Supports (MFP-RS) Waiver*.
- (2) Money Follows the Person (MFP) Community Living Waiver.
- (a) Clinical and Age Requirements. The MFP Community Living Waiver, as authorized under section 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital services to receive specified waiver services, other than residential support services in the home or community, if he or she meets all of the following criteria:

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1. is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
 2. is an inpatient in a nursing facility, chronic disease or rehabilitation hospital, or, for participants 18 through 21 years of age or 65 years of age and older, psychiatric hospital with a continuous length of stay of 90 or more days, excluding rehabilitation days;
 3. must have received MassHealth benefits for inpatient services, and be MassHealth eligible at least the day before discharge;
 4. needs one or more of the services under the MFP Community Living Waiver;
 5. is able to be safely served in the community within the terms of the MFP Community Living Waiver; and
 6. is transitioning to the community setting from a facility, moving to a qualified residence, such as a home owned or leased by the applicant or a family member, an apartment with an individual lease, or a community-based residential setting in which no more than four unrelated individuals reside.
- (b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
1. meet the requirements of 130 CMR 519.007 (H)(2)(a);
 2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
 3. have countable assets of \$2,000 or less for an individual and, for a married couple, if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
 4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Enrollment Limits. Enrollment in the MFP Community Living Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.
- (d) Waiver Services. Eligible members who are enrolled as waiver participants in the MFP Community Living Waiver are eligible for the waiver services described in 130 CMR 630.405(D): *Money Follows the Person Community Living (MFP-CL) Waiver*.

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519.010: MassHealth Senior Buy-In

- (A) Eligibility Requirements. MassHealth Senior Buy-In coverage is available to Medicare beneficiaries who
- (1) are entitled to hospital benefits under Medicare Part A;
 - (2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 100% of the federal poverty level;
 - (3) have countable assets less than or equal to the amount of allowable assets for Buy-in programs as identified by the Centers for Medicare and Medicaid Services in the *Federal Register*. Each calendar year, the allowable asset limits shall be made available on MassHealth's website; and
 - (4) meet the universal requirements of MassHealth Standard coverage.
- (B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B.
- (C) Begin Date. The begin date for MassHealth Senior Buy-In coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

519.011: MassHealth Buy-In

- (A) MassHealth Buy-In for Specified Low Income Medicare Beneficiaries.
- (1) Eligibility Requirements. MassHealth Buy-In coverage for Specified Low Income Medicare Beneficiaries is available to Medicare beneficiaries who meet the eligibility requirements of MassHealth Senior Buy-In coverage at 130 CMR 519.010 with the following exception: the countable income amount of the individual and his or her spouse must be greater than 100% of the federal poverty level and less than 120% of the federal poverty level.
 - (2) Benefits. The MassHealth agency pays the cost of the monthly Medicare Part B premium for members who establish eligibility for MassHealth Buy-In coverage in accordance with 130 CMR 519.011(A).
 - (3) Begin Date. MassHealth Buy-In coverage, in accordance with 130 CMR 519.011(A), begins with the month of application and may be retroactive up to three calendar months before the month of application.
- (B) MassHealth Buy-In for Qualifying Individuals.
- (1) Eligibility Requirements. MassHealth Buy-In coverage for Qualifying Individuals is also available to Medicare beneficiaries who
 - (a) are entitled to hospital benefits under Medicare Part A;
 - (b) are not eligible for MassHealth Standard or CarePlus under the Medicaid State Plan;

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(c) have a countable income amount (including the income of the spouse with whom he or she lives) that is equal to or greater than 120% of the federal poverty level and less than 135% of the federal poverty level; and

(d) have countable assets less than or equal to the amount of allowable assets for Buy-in programs as identified by the Centers for Medicare & Medicaid Services in the *Federal Register*. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

(2) **Benefits.** The MassHealth agency pays the entire Medicare Part B premium, in accordance with section 1933 of the Social Security Act (42 U.S.C. § 1396u-3), for members who meet the requirements of 130 CMR 519.011(B) and have a countable income amount that is equal to or greater than 120% of the federal poverty level and less than 135% of the federal poverty level. Such payments are made through the state Medicare Buy-In process.

(3) **Eligibility Coverage Period.**

(a) MassHealth Buy-In coverage, in accordance with 130 CMR 519.011(B), begins with the month of application. Coverage may be retroactive up to three months before the month of application provided

1. the retroactive date does not extend into a calendar year in which the expenditure cap described at 130 CMR 519.011(B)(4) has been met;
2. the retroactive date is not earlier than October 1, 1998; and
3. the applicant was not receiving MassHealth during the retroactive period.

(b) Once determined eligible, a member who continues to meet the requirements of 130 CMR 519.011(B) is eligible for the balance of the calendar year. Such members are not adversely impacted by the provisions of 130 CMR 519.011(B)(4).

(4) **Cap on Expenditures.**

(a) The MassHealth agency does not extend eligibility to individuals who meet the requirements of 130 CMR 519.011(B), if the MassHealth agency estimates the amount of assistance provided to these members during the calendar year will exceed the state's allocation, as described in section 1933 of the Social Security Act.

(b) The MassHealth agency gives preference to members who were eligible for MassHealth Buy-In, as described in 130 CMR 519.011, or MassHealth Senior Buy-In, as described in 130 CMR 519.010, in December of the previous calendar year when determining an individual's eligibility for MassHealth Buy-In, as described in 130 CMR 519.011(B), in the subsequent calendar year.

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519.012: MassHealth CommonHealth

(A) Working Disabled Adults.

(1) Eligibility Requirements. MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age and older in the same manner as it is available to those younger than 65 years old. This means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3), and (5) to be eligible for CommonHealth.

(2) Other Provisions. The following provisions apply to CommonHealth applicants and members 65 years of age and older: 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2), and (N).

(B) Certain Disabled Institutionalized Children Who Are Noncitizens.

(1) Eligibility Requirements. MassHealth CommonHealth is available to institutionalized disabled children who meet the requirements of 130 CMR 505.004(G): *Disabled Children Younger Than 18 Years Old* and 519.006(A)(2), and who

(a) have attained the immigration status described in 130 CMR 518.003(A)(2): *Qualified Aliens Barred*, and five years have not passed from the date they attained such status;

(b) are noncitizens under the Immigration and Nationality Act (INA); or

(c) are noncitizens paroled into the United States under section 212(d)(5) of the INA for less than one year.

(2) Other Provisions. The following provisions apply to CommonHealth applicants and members who are described above in 130 CMR 519.012(B)(1), 130 CMR 505.004(A)(2), (H), and (J), and (M)(1) and (2).

(C) Financial Eligibility. Financial eligibility for all MassHealth CommonHealth applicants and members is based on the regulations in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. 130 CMR 520.000: *MassHealth: Financial Eligibility* does not apply.

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519.013: MassHealth Family Assistance

(A) Eligibility Requirements. MassHealth Family Assistance is available to community residents 65 years of age and older who meet the following requirements:

- (1) are qualified noncitizens barred, as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individual lawfully present, as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*, or a nonqualified PRUCOL, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*,
 - (a) with the countable-income amount, as defined in 130 CMR 520.009: *Countable-Income Amount*, of the individual or married couple living together is less than or equal to 100% of the federal poverty level (FPL);
 - (b) with the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less; and
 - (c) without health insurance, or access to health insurance; or
- (2) are nonqualified PRUCOLs, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*,
 - (a) with modified adjusted gross income of the MassHealth MAGI household as described in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements* between 100 and 300% of the federal poverty level (FPL); and
 - (b) without health insurance, or access to health insurance.

(B) Financial Standards Not Met. Individuals described in 130 CMR 519.013(A)(1) whose income, assets, or both exceed the standards set forth in 130 CMR 519.013(A) may establish eligibility for MassHealth Family Assistance by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

(C) Automatic Eligibility for EAEDC Recipients 65 Years of Age and Older.

- (1) Individuals 65 years of age and older who meet the requirements of the Emergency Aid to the Elderly, Disabled and Children (EAEDC) program administered by the Department of Transitional Assistance and who are qualified noncitizens barred, as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*, or nonqualified PRUCOLs, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, are automatically eligible for benefits under 130 CMR 519.013.
- (2) Individuals whose EAEDC cash assistance ends and who are determined to be potentially eligible for MassHealth continue to receive medical benefits under MassHealth Family Assistance until a determination of ineligibility is made by the MassHealth agency.

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(D) Benefits. Individuals eligible for MassHealth Family Assistance are eligible for medical benefits on a fee-for-service basis as defined in 130 CMR 515.001: *Definition of Terms*. These medical benefits are described in MassHealth regulations at 130 CMR 450.105(G): *MassHealth Family Assistance*.

(E) Coverage Date. The begin date of medical coverage is established in accordance with 130 CMR 516.005: *Coverage Date*. MassHealth Family Assistance members are eligible for medical coverage under MassHealth Limited if otherwise eligible for MassHealth Limited as described in 130 CMR 519.009.

REGULATORY AUTHORITY

130 CMR 519.000: M.G.L. c. 118E, §§ 7 and 12