

30,000 Commonwealth Care recipients who are legal immigrants were mailed a notice that their health insurance benefits will end August 31- you can help!

- **Check whether MassHealth has accurate information about their status & update incorrect or out of date information**
- **File an appeal if unable to correct an erroneous termination notice and refer your client/patient to a legal advocate**

Your clients or patients can be protected from any loss of benefits IF they are eligible “qualified aliens” (or US citizens) and not “alien with special status.” There are often mistakes made in correctly determining immigrants' eligibility status and statuses change. It is worth checking that your clients or patients are correctly identified with up to date information. If you can't correct an error on your own, appeal and refer your patient to a legal advocate.

Who are “aliens with special status” (AWSS)?

These are legal immigrants who do not meet the 1996 federal Medicaid eligibility rules for immigrants—most became legal permanent residents within the last 5 years. MassHealth coined the term “AWSS” to describe this group. If your client/patient got a termination notice, MassHealth thinks they are AWSS. If you call the MassHealth Enrollment Center to check on someone's status, the **QAC screen** will show what status is in the computer, whether it was verified & the date status was obtained/US entry date. This information is not available in EVS, MAP, or on their health cards.

Who are qualified and eligible immigrants?

- **Legal permanent residents (green card holders) and people “paroled” into US who have had their status for 5 or more years (i.e. legal permanent residents on Sept. 1, 2004 or earlier are qualified and eligible on Sept. 1, 2009)**
 - Look out for long-time LPRs treated as AWSS because they did not send in verification of status or whose verification may have had an illegible date that status was obtained.
- **Legal permanent residents and parolees who have had their status for less than 5 years are qualified and eligible if-**
 - They have been continuously living in US from before Aug. 22, 1996 (the date the federal rules took effect) until obtaining legal permanent resident status
 - Example: Nina came to US as child in 1974 and was undocumented until 2006 when she became a legal permanent resident; she is qualified and eligible

- US entry date does not appear on the green card; it is asked for on MBR & is easily overlooked
- They had a qualified and eligible status before becoming a recent legal permanent resident
 - Example: Boris entered the US as a refugee in 2006 and became a legal permanent resident in 2008; he is qualified and eligible
 - Prior eligible status is usually indicated by the code on the green card e.g. RE-6 is one code for refugees; it is easily overlooked
- They are qualified and eligible Amerasians
 - Certain codes on green card show that someone from Vietnam is an eligible Amerasian e.g. AM-1 is one such code
- They are qualified and eligible Cuban-Haitian entrants
 - Certain codes on the green card show that individuals from Cuba or Haiti received status under special laws benefiting them e.g. HE-6 is one code for Haitian entrants who have green cards
 - There is a May 2008 memo from MassHealth with detailed information on how to identify Cuban-Haitian entrants
- They are certain native Americans born outside U.S. & not US citizens
 - E.g. Canadian with green card with S1-3 is qualified and eligible
- They are veterans or in active service in US armed forces or served under US command in certain conflicts and their spouses and dependent children
 - Veteran status will not appear on immigration documents. It is asked for on MBR and easily overlooked
- They are domestic violence victims no longer living with the abusive family member, and their children (or the non-abusive parent of an abused child)
 - Codes on green cards will indicate domestic violence for some immigrants e.g. Code B2-1 is one such code. But other immigrants will have green cards without a distinctive code. The domestic violence question is asked on MBR but is often overlooked

- **People who have one of the statuses or conditions listed below are qualified and eligible regardless of date of entry (there is no 5-year rule for them)**
 - Refugees, people granted Political Asylum, and people granted Withholding of Deportation (these are all people who fled political persecution in their home countries)
 - Cuban-Haitian entrants (CHE)
 - In addition to certain Cubans or Haitians with legal permanent residents who may be CHE, people with parole status, asylum applicants, people under orders of supervision, and others may be qualified and eligible as CHE.
 - There is a May 2008 memo from MassHealth with detailed information on how to identify Cuban-Haitian entrants
 - Victims of severe forms of trafficking and their children (these people have been victims of forced labor/slavery or sex trafficking and are now working with authorities)
 - Certain victims of domestic violence who are no longer living with their abusive family member and their children (or the nonabusive parent of an abused child)
 - This information sometimes appears on immigration documents but sometimes does not. The MBR asks about it but the question and answer are often overlooked.
 - Someone does not have to be a green card holder to be protected by this rule.
 - Someone with a pending VAWA petition may be in Comm. Care instead of MassHealth Standard because she cannot obtain a social security number. This can be fixed. Please notify MLRI (below) if you see this situation.
 - Certain veterans or active duty personnel who served in US military or under US command in certain conflicts and their spouses and children
 - Veteran status does not appear on immigration documents. The MBR asks about it but the question and answer are often overlooked.
 - Iraqi and Afghani Special Immigrants
 - Qualified eligible status for these immigrants are time-limited to 8 months

- **Also look for AWSS who had an application pending for a change in status from immigration officials or the courts when they applied for Commonwealth Care, and have now obtained an eligible qualified status or become naturalized US citizens**
 - Applicants for political asylum or withholding of deportation who have now been granted political asylum or withholding of deportation
 - Applicants for adjustment of status who are now legal permanent residents and are in one of the groups who are not required to wait 5 years to be qualified and eligible
 - Legal permanent residents who have become naturalized U.S. citizens (spouses of US citizens only have to wait 3 years as green card holders to become US citizens)
 - Legal permanent residents who have met their 5 years (or will be meeting it soon)

What to do if you identify an AWSS who should be qualified and eligible?

Only the MassHealth enrollment center can change someone's eligibility status. Notify the MEC why your client should be upgraded from AWSS to qualified. In most situations, it will be necessary to send in immigration documents. If your call is intercepted by Customer Service, you will need to talk to the MEC. Try to get the person you talk to let you fax documents to his or her attention.

Make sure copies are legible. Circle dates & codes and write them in the margin of the photocopy and label all documents with name, SSN if available, and birthdate. In your fax, be as clear as you can why your client is qualified and eligible.

Some information that is obtained by self-declaration on the MBR –veteran status, domestic violence, US entry date- your client may be able to report by telephone. However, your client may be asked for a signed statement or other proof.

A change should generate a notice that the individual is still eligible for Commonwealth Care. If no notice, check back and ask what is recorded in the **QAC screen** to see if the change has been processed. If in doubt, file an appeal.

These rules are confusing! If the person at the MEC does not appear to understand them, ask for a supervisor.

If in doubt, appeal the termination

If you are not sure whether your client's or patient's status will be adjusted appropriately in time to protect their benefits, appeal the termination notice and contact a legal advocate.

Legal Advocacy and Resource Center (LARC): 617-603-1700;

800-342-5297

Massachusetts Law Reform Institute 617-357-0700 Ext. 318 (Vicky) or 309 (Neil)

Health Law Advocates 617-338-5241

What are other options for clients who are pregnant, disabled, or elderly?

Some Commonwealth Care recipients who are AWSS may be eligible for certain MassHealth programs based on pregnancy, disability or age.

- Women who are pregnant are eligible for prenatal care & 60 days post-partum care from Healthy Start instead of Commonwealth Care. Report the pregnancy to the MEC.
- AWSS who are severely disabled (as defined in the SSI program) and have income no higher than 100% of the poverty level are eligible for MassHealth Essential instead of Commonwealth Care. Report disability to the MEC and ask for a disability supplement form. The process of determining disability may take 60-90 days.
 - Under current MassHealth rules disabled AWSS must also have been long term unemployed. However, don't let this stop a recently disabled client from applying for disability-based benefits now.
 - Commonwealth Care covers some services that MassHealth Essential does not including up to 100 days in a skilled nursing facility or chronic/rehab. hospital. If your client is in one of these facilities please get further advice from a legal advocate.
- AWSS who are age 65 and older and have income under the poverty level and limited assets are eligible for MassHealth Essential. Possibly some 64 year olds turning 65 are in Commonwealth Care. An S-MBR will be needed to capture asset information.
- Some AWSS with less severe disabilities (not meeting SSI standard but expected to last at least 60 days) and who have very very low income and very few assets (less than \$250 in cash) may be eligible for cash aid under EAEDC from the Dept. of Transitional Assistance. EAEDC recipients are eligible for MassHealth Basic or Essential. Apply through DTA not MassHealth.

Prepared by Vicky Pulos, Massachusetts Law Reform Institute, vpulos@mlri.org, August 10, 2009 (for more information on immigrant eligibility rules, see the immigrant health section of www.masslegalservices.org)