

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2306304
<b>Decision Date:</b>	10/19/2023	<b>Hearing Date:</b>	08/31/2023
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Taylor Edwards (Quincy MEC) *via telephone*



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Downgrade from MassHealth Standard to Family Assistance
<b>Decision Date:</b>	10/19/2023	<b>Hearing Date:</b>	08/31/2023
<b>MassHealth's Rep.:</b>	Taylor Edwards	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated June 30, 2023, MassHealth informed the appellant that his MassHealth Standard coverage would end on July 31, 2023. (See 130 CMR 505.002 and Exhibit (Ex.) 1). On the same date, MassHealth informed the appellant in separate notices that the MassHealth Standard coverage for his two children would end on July 14, 2023. (See 130 CMR 505.002 and Ex. 2, Ex.3). The notices also stated that MassHealth had downgraded the appellant's coverage to Health Safety Net (HSN), and his children's coverage to Family Assistance, all of which would begin on June 20, 2023. (Ex. 1; Ex. 2; Ex. 3). The appellant filed this appeal in a timely manner on July 27, 2023, indicating that he was only concerned about the downgrade to his children's coverage. (See 130 CMR 610.015(B) and Ex. 4). Any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance is grounds for an appeal. (See 130 CMR 610.032(A)(3)).

### Action Taken by MassHealth

MassHealth downgraded the appellant's children's coverage from MassHealth Standard to Family Assistance.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002 and 505.005, in determining that the coverage for the appellant's children should be downgraded from MassHealth Standard to Family Assistance.

## Summary of Evidence

The appellant has a household of four, which includes the appellant, his wife, and his two children both of whom are [REDACTED] years old. (Ex. 6; Ex. 7). The appellant's children are both citizens. (Ex. 6; Ex. 7). The MassHealth representative stated that MassHealth downgraded their coverage from MassHealth Standard to Family Assistance. (Ex. 2; Ex. 3). The MassHealth representative explained that the reason for the downgrade was that the household income now exceeds the income limit for MassHealth Standard. The household income totals \$4,950.30 per month. This is 189.54% of the Federal Poverty Level (FPL) and exceeds the income threshold for MassHealth Standard for children from one through 18, which is 150% of the FPL or \$3,750 per month. For this reason, the children's coverage was downgraded to Family Assistance. The MassHealth representative stated that Standard covers more than Family Assistance. The appellant's children are both receiving therapy but also use the services of therapeutic mentors. The MassHealth representative stated that Standard covered both of these services but that Family Assistance did not cover the mentor services.

In his fair hearing submission, the appellant wrote the following:

I am writing to request an appeal to the loss of Mass Health Standard for our children...My wife got a part time job and when we reported that income it pushed us out of eligibility for Mass Health Standard. My wife and I purchased a health care plan from the Health Connector and the children were put under Mass Health Family Assistance with WellSense as their plan. That plan didn't cover my son's medication so we switched both children to Mass General Brigham. Our problems arose when [my son]'s therapeutic mentor was unable to bill for a session and the subsequent maze of insurance plans and hours and hours spent on the phone began. Our two children have been with Children's Friend & Family for over 5 years. We consider the therapists that both [children] see there to be vital to their mental health, [my son]'s therapeutic mentor has worked with [him] over 2 years and their relationship is extremely constructive and special. [My son] takes a medication that we need to have him on and we're not interested in having him test out new medications, dosage and side effects which could effect [sic] him in a very negative way. Both children have seen the same pediatrician since they were toddlers. All of this is going away if we can't appeal the decision from Mass Health. We are looking for continuity of care and medication because the behavioral health services our children have been getting (therapists/therapeutic mentor) for the last 5 years are needed, the medicine my son

takes is needed and we don't [want] to change our pediatrician, losing all of this would cause a major disruption to the health of our children. (Ex. 4).

The appellant stated that he did not dispute the income figure, but this meant that his children were bumped out of MassHealth Standard. It appeared there was no way for them to continue receiving the care they had been receiving for years. The appellant stated that his son has a great partnership with his mentor and losing the mentor would be detrimental to his growth as a person. The appellant is also concerned because his children could also lose their pediatrician, who prescribes their medication. The pediatrician knows his children well and there could be a gap in their continuity of care.

## Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The appellant has a household of four, which includes the appellant, his wife, and his two children both of whom are ■ years old. (Testimony of the MassHealth representative; Ex. 6; Ex. 7).
2. The appellant's children are both citizens. (Ex. 6; Ex. 7).
3. For children aged one through 18 years old, the monthly household income must not exceed 150% of the FPL or \$3,750 in order to be eligible for MassHealth Standard. (Testimony of the MassHealth representative).
4. The appellant's household income currently totals \$4,950.30 per month, which is 189.54% of the FPL. (Testimony of the MassHealth representative).
5. MassHealth downgraded the children's coverage from MassHealth Standard to Family Assistance. (Ex. 2; Ex. 3).
6. The children are eligible for MassHealth Family Assistance because the household income is above 150% and less than 300% of the FPL. (Testimony of the MassHealth representative).

## Analysis and Conclusions of Law

A child aged one through 18 years old is eligible for MassHealth Standard if the modified adjusted gross income ("MAGI") of the MassHealth MAGI household is less than or equal to 150% of the federal poverty level and the child is a citizen<sup>1</sup> or a lawfully present immigrant<sup>2</sup>. (130 CMR

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<sup>1</sup> As described in 130 CMR 504.002: U.S. Citizens.

<sup>2</sup> As described in 130 CMR 504.003(A): Lawfully Present Immigrants.

505.002(B)(2)). Children younger than 19 years old are eligible for MassHealth Family Assistance coverage if the modified adjusted gross income of the child's MassHealth MAGI household is greater than 150% and less than or equal to 300% of the FPL, the child is ineligible for MassHealth Standard or CommonHealth<sup>3</sup>, the child is a citizen, and the child is uninsured. (130 CMR 505.005(B)(1)).

Despite the appellant's very valid concerns regarding the possible loss of services caused by the downgrade in his children's coverage, the only issue before this hearing officer is whether MassHealth correctly determined that the coverage should be downgraded. A preponderance of the evidence shows that the appellant's children are not eligible for MassHealth Standard but are eligible for Family Assistance. The income limit for MassHealth Standard for children between one and 18 is 150% FPL or \$3,750 per month. The household's reported monthly income totals \$4,950.30, which is 189.54% of the FPL. The household income therefore exceeds the income limit for MassHealth Standard.

The household's income does fall within the eligible income range for Family Assistance, which is above 150% of FPL but less than or equal to 300% of the FPL. The appellant's children are both citizens and are otherwise uninsured. As shown above, they are not eligible for MassHealth Standard, but, additionally, there is no evidence that the children are eligible for MassHealth CommonHealth. This means that MassHealth correctly determined that the children were eligible for Family Assistance.

For the above stated reasons, the appeal is DENIED.<sup>4</sup>

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<sup>3</sup> In order to be eligible for CommonHealth, a child younger than 18 years old must be totally and permanently disabled, i.e. the child must have medically determinable physical or mental impairment, or combination of impairments, of comparable severity to an impairment or combination of impairments that disables an adult, or are of such severity that the child is unable to engage in age-appropriate activities, as defined in Title XVI of the Social Security Act as in effect on July 1, 1996. (130 CMR 505.004(G) and 130 CMR 501.001)). Disability is established by certification of legal blindness by the Massachusetts Commission for the Blind (MCB); a determination of disability by the SSA; or a determination of disability by the Disability Evaluation Services (DES). No evidence was put before the hearing officer concerning whether the children were eligible or ineligible for CommonHealth. For the purposes of this decision, it is presumed that the children are not eligible for CommonHealth.

<sup>4</sup> That said, a brief explanation of the differences between MassHealth Standard and Family Assistance coverage may be in order and may assist the appellant moving forward. There are 37 services that are covered by both Standard and Family Assistance. (See 130 CMR 450.105(A)(1) and (G)(3)). Neither explicitly lists mentor services as being a covered service as such. MassHealth Standard does cover an additional seven services that Family Assistance does not: adult day health, adult foster care, day habilitation, independent nurse (private duty nursing), nursing facility, personal care (PCA), and medical transportation. (130 CMR 450.105(A)(1)(c), (d), (p), (x), (aa), (ee), (pp)). Family Assistance, however, also covers two services that MassHealth Standard does not: nurse midwife and nurse practitioner. (130 CMR 450.105(G)(3)(w), (x)). These are the only differences between these two types of MassHealth

## Order for MassHealth

None.

## Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

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coverage.