

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2309056
<b>Decision Date:</b>	11/17/2023	<b>Hearing Date:</b>	10/23/2023
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Jenna Lanzillo – Springfield HCR



*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>	Approved	<b>Issue:</b>	Under-65; Eligibility; Retroactive coverage; Newborn
<b>Decision Date:</b>	11/17/2023	<b>Hearing Date:</b>	10/23/2023
<b>MassHealth's Rep.:</b>	Jenna Lanzillo	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

### 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 August 21, 2023, MassHealth approved the appellant for MassHealth Family Assistance coverage starting August 11, 2023. (Exhibit 1.) The appellant filed this appeal in a timely manner on September 28, 2023. (Exhibit 2; 130 CMR 610.015(B).) Determinations of the start date of assistance are valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth approved the appellant's MassHealth coverage 10-days before the day his social security number was reported, not back to his birth.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 502.006 and Eligibility Operations Memorandum ("EOM") 23-18, in determining that that the appellant's eligibility could not go back before August 11, 2023 to the date of his birth.

## Summary of Evidence

The appellant is an infant who was born in the summer of 2023. MassHealth's representative testified that the appellant's birth was reported on August 21, 2023, and that MassHealth eligibility can only go retroactive 10-days. Therefore, MassHealth approved the appellant for Family Assistance coverage as of August 11, 2023, and not the date of his birth. MassHealth's representative confirmed that the appellant's two siblings were covered by Family Assistance at the time of the appellant's birth. She also acknowledged that Eligibility Operations Memorandum ("EOM") 22-18 appears to authorize three-month retroactive coverage for children under the age of 19. However, she testified that she reviewed the case with her manager and that EOM 22-18 was inapplicable because the appellant had not been a MassHealth member before.

The appellant's mother testified that the appellant's parents receive their health insurance through the Health Connector. She called MassHealth in January 2023 to report she was pregnant, but she was told that her son could not be added to MassHealth until she had his Social Security Number. She testified that she called as soon as she got his Social Security Number, but she was then told that he could only be covered 10-days back from the date she reported his birth. The appellant's mother testified that she had called their insurance company and was told that her son was ineligible to be enrolled in their Connector plan because he was eligible for MassHealth coverage.

MassHealth's representative was able to confirm that the appellant's mother called MassHealth in January 2023, and that the computer system reflected an income change was reported, but the appellant's household size did not change. MassHealth's worker testified that reported changes during the Covid-19 Federal Public Health Emergency ("FPHE") usually did not impact eligibility, as everyone's benefits were protected during the FPHE. She also testified that if a notice would have gone out, the worker needed to suppress the notice in the computer system. MassHealth is currently in the process of unwinding these protections, but MassHealth had not requested that the appellant's family renew their eligibility by the time of his birth.

MassHealth's representative testified that there were no notes in the computer system regarding pregnancy, therefore she had to assume that the mother's pregnancy was not discussed during the call. She agreed that, had the appellant's birth been reported in January 2023, he would have been automatically eligible upon birth for the same Family Assistance coverage his siblings had.<sup>1</sup>

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<sup>1</sup> In response to the appellant's being added to his family's case, MassHealth requested that the family renew the whole household's eligibility and requested income verifications. The household's income was verified as over 400% of the federal poverty level, and all of the children were terminated from MassHealth coverage and moved to the Children's Medical Security Plan. They are now eligible to be enrolled in the parent's Health Connector Coverage.

## Findings of Fact

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

1. The appellant was born in the summer of 2023; his birth was reported to MassHealth on August 21, 2023. (Testimony by MassHealth's and appellant's representatives.)
2. Based upon the eligibility information available for the appellant's family, the appellant was approved for MassHealth Family Assistance as of August 11, 2023. (Exhibit 1; testimony by MassHealth's representative.)
3. The appellant's mother reported her pregnancy to MassHealth in January 2023. (Testimony by appellant's representative.)
4. MassHealth has a record of this telephone call, but the computer system did not record the appellant being added to the household. The family's benefits were otherwise protected due to the FPHE, and the household had not been asked to update their information between the end of the FPHE and the appellant's birth. (Testimony by MassHealth's representative.)

## Analysis and Conclusions of Law

Historically, coverage changes for new applicants are effective "ten days prior to the date of application." (130 CMR 502.006(A)(2)(a).) Coverage for "existing members whose MassHealth coverage type changes due to a change in circumstances" occurs 10 days prior to the receipt of the documentation necessary to effect the change in their coverage, except that downgrades are effective 14 days after the date of the MassHealth notice. (130 CMR 502.006(B).) There is no specific regulation regarding adding newly born children to a household. This is partly because expected children are already included in a household size under 130 CMR 506.002. MassHealth's representative testified that, when children are added to the household prior to their birth, they are automatically approved based upon their household's eligibility.

MassHealth agrees that the appellant would have been eligible for MassHealth benefits if his existence had been recorded in the computer system in January 2023. The only question is whether the appellant's benefits may retroactively be approved to the date of his birth. In a fair hearing, the "effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted." (130 CMR 610.071(A)(2).) I credit the appellant's mother's testimony that she reported her pregnancy to MassHealth in January 2023. Therefore, the appellant will be considered a

member of his MassHealth household as of January 2023, and his birth did not need to be reported to MassHealth in order to result in coverage.<sup>2</sup> This appeal is APPROVED.

## **Order for MassHealth**

Approve the appellant for Family Assistance as of the day of his birth. This coverage may end as of the date his household was redetermined ineligible for MassHealth.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Christopher Jones  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

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<sup>2</sup> This decision does not rely upon EOM 23-11 (April 2023) and 23-18 (July 2023) (“Retroactive eligibility for pregnant persons and children may be up to the first day of the third month before their application date.”) These policies also make clear that MassHealth should cover newborns well before 10-days prior to the report of their birth.