

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2310734
<b>Decision Date:</b>	1/18/2024	<b>Hearing Date:</b>	11/29/2023
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Laymaris Ortiz – 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>	Denied	<b>Issue:</b>	Under-65; Eligibility; Categories for Standard
<b>Decision Date:</b>	1/18/2024	<b>Hearing Date:</b>	11/29/2023
<b>MassHealth's Rep.:</b>	Laymaris Ortiz	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Telephonic	<b>Aid Pending:</b>	Yes

### 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 October 19, 2023, MassHealth downgraded the appellant's coverage from MassHealth Standard to MassHealth CarePlus. (Exhibit 1; 130 CMR 505.002(C)(1); 505.006(B).) The appellant filed this timely appeal on October 30, 2023, and her benefits are protected pending the outcome of this appeal. (130 CMR 610.015(B); 610.036.) Limitations on assistance are valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth downgraded the appellant's coverage to MassHealth CarePlus because the appellant's youngest child turned [REDACTED]-years-old.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.000, in determining that the appellant was no longer eligible for MassHealth Standard.

## Summary of Evidence

After completing her annual renewal, the appellant's MassHealth Standard coverage was downgraded to CarePlus. MassHealth's representative explained this was due to the appellant's younger child turning ■-years-old. The appellant had been eligible for MassHealth Standard as a parent or caretaker of children under the age of 19. Now that her child is older, there was no longer categorical eligibility for MassHealth Standard. The appellant herself is under the age of 65 and has household income below 133% of the federal poverty level.

The appellant testified that she has had MassHealth Standard for a very long time, and she is concerned about having her coverage downgraded. She recently had surgery and had a nurse coming to her home following the surgery to check on her recovery. MassHealth explained that CarePlus would continue to cover all of these services on a temporary basis, and the only coverage difference between Standard and CarePlus was that CarePlus does not cover certain services directed at aiding persons with chronic conditions for which the member would require hands-on assistance on a long-term basis. The coverage differences were reviewed, and the only services not covered by CarePlus that are covered by Standard were: adult day health services; adult foster care services; Chapter 766: home assessments and participation in team meetings; day habilitation services; early intervention services; independent nurse (private duty nursing) services; and personal care services. (See 130 CMR 450.105(A), (B).)

The appellant agreed that she did not need long-term services at this time, but she was concerned that she would need some of these services in the future, and she was further concerned that MassHealth would make it difficult to change coverage types when her need arose. MassHealth's representative explained that if she believed she was "medically frail" she could report that to MassHealth, and her coverage could temporarily be converted to Standard. MassHealth's representative did not have more details regarding what the process was to be deemed medically frail. The appellant felt that MassHealth would delay approving her for Standard and that she would be left with a medical bill for services that would be covered by Standard but are not covered by CarePlus.

## Findings of Fact

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

- 1) The appellant is between the ages of 21 and 65, and her household income is below 133% of the federal poverty level. (Testimony by MassHealth's representative; see Exhibit 4.)
- 2) The appellant has received MassHealth Standard coverage for many years as a parent or caretaker relative of a minor child. (Testimony by MassHealth's representative and the appellant.)

- 3) The appellant's youngest child turned 19-years-old prior to MassHealth's downgrade notice. (Testimony by MassHealth's representative and the appellant.)
- 4) The appellant does not currently have any chronic medical conditions that necessitate assistance with personal care needs on a long-term basis, but she fears she may need long-term assistance in the future. (Testimony by the appellant.)

## Analysis and Conclusions of Law

MassHealth offers a variety of coverage types based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below the relevant financial thresholds. MassHealth Standard coverage is available for members: "who are pregnant, children, **parents and caretaker relatives**, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health (DMH) members, and **medically frail** as such term is defined in 130 CMR 505.008(F) . . . ." (130 CMR 505.001(A)(1) (emphasis added).) Financially, members under the age of 65 who seek MassHealth Standard benefits must have countable income below the limits determined according to their categorical eligibility, generally the cutoff is 133% of the federal poverty level. (See 130 CMR 505.002.) MassHealth CarePlus coverage is available "for adults 21 through 64 years old who are not eligible for MassHealth Standard." (130 CMR 505.001(A)(3).)

MassHealth Standard eligibility for "parents and caretaker relatives" exists only for a "parent or caretaker relative of a child **younger than 19 years old**." (130 CMR 505.002(C)(1) (emphasis added).) A member will be deemed "medically frail" if they are:

- (1) an individual with a disabling mental disorder (including children with serious emotional disturbances and adults with serious mental illness);
- (2) an individual with a chronic substance use disorder;
- (3) an individual with a serious and complex medical condition;
- (4) an individual with a physical, intellectual, or developmental disability that significantly impairs their / ability to perform one or more activities of daily living; or
- (5) an individual with a disability determination based on Social Security criteria.

(130 CMR 505.008(F).)

MassHealth's representative was unclear on exactly what is needed to be found "medically frail," other than the member needs to report their frailty. MassHealth's website states that after the member reports being medically frail, "there may be some more steps needed ... . For example,

MassHealth may need more information or may need to make sure the benefits are necessary and right for you. Your doctor and MassHealth Customer Service can help explain these extra steps to you.” (<https://www.mass.gov/info-details/masshealth-coverage-types-for-individuals-and-families-including-people-with-disabilities-0> (last visited Jan. 12, 2024).) However, the “effective date of MassHealth Standard is the date of the reported change.” (130 CMR 505.008(F).) Which means that even if the appellant needed to verify a qualifying medical condition, the coverage would be effective as of the day she reported the frailty to MassHealth.

To further alleviate the appellant’s concerns, below is a list of services covered by both Standard and CarePlus:

<p>(A) <u>MassHealth Standard</u>.</p> <p>(1) <u>Covered Services</u>. The following services are covered for MassHealth Standard members (<i>see</i> 130 CMR 505.002: <i>MassHealth Standard</i> and 130 CMR 519.002: <i>MassHealth Standard</i>).</p> <ul style="list-style-type: none"> <li>(a) abortion services;</li> <li>(b) acupuncture services;</li> <li><b>(c) adult day health services;</b></li> <li><b>(d) adult foster care services;</b></li> <li>(e) ambulance services;</li> <li>(f) ambulatory surgery services;</li> <li>(g) audiologist services;</li> <li>(h) behavioral health services;</li> <li>(i) certified nurse midwife services</li> <li>(j) certified nurse practitioner services;</li> <li>(k) certified registered nurse anesthetist services;</li> <li><b>(l) Chapter 766: home assessments and participation in team meetings;</b></li> <li>(m) chiropractor services;</li> <li>(n) clinical nurse specialist services;</li> <li>(o) community health center services;</li> <li><b>(p) day habilitation services;</b></li> <li>(q) dental services;</li> <li>(r) durable medical equipment and supplies;</li> <li><b>(s) early intervention services;</b></li> <li>(t) family planning services;</li> <li>(u) hearing aid services;</li> <li>(v) home health services;</li> <li>(w) hospice services;</li> <li><b>(x) independent nurse (private duty</b></li> </ul>	<p>(B) <u>MassHealth CarePlus</u>.</p> <p>(1) <u>Covered Services</u>. The following services are covered for MassHealth CarePlus members (<i>see</i> 130 CMR 505.008: <i>MassHealth CarePlus</i>).</p> <ul style="list-style-type: none"> <li>(a) abortion services;</li> <li>(b) acupuncture services;</li> <li>(c) ambulance services;</li> <li>(d) ambulatory surgery services;</li> <li>(e) audiologist services;</li> <li>(f) behavioral health services;</li> <li>(g) certified nurse midwife services;</li> <li>(h) certified nurse practitioner services;</li> <li>(i) certified registered nurse anesthetist services;</li> <li>(j) chiropractor services;</li> <li>(k) clinical nurse specialist services;</li> <li>(l) community health center services;</li> <li>(m) dental services;</li> <li>(n) durable medical equipment and supplies;</li> <li>(o) family planning services;</li> <li>(p) hearing aid services;</li> <li>(q) home health services;</li> <li>(r) hospice services;</li> <li>(s) inpatient hospital services;</li> <li>(t) laboratory services;</li> <li>(u) nursing facility services;</li> <li>(v) orthotic services;</li> <li>(w) outpatient hospital services;</li> <li>(x) oxygen and respiratory therapy equipment;</li> <li>(y) pharmacy services;</li> </ul>
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<p><b>nursing) services;</b>  (y) inpatient hospital services;  (z) laboratory services;  (aa) nursing facility services;  (bb) orthotic services;  (cc) outpatient hospital services;  (dd) oxygen and respiratory therapy equipment;  <b>(ee) personal care services;</b>  (ff) pharmacy services;  (gg) physician services;  (hh) physician assistant services;  (ii) podiatrist services;  (jj) prosthetic services;  (kk) psychiatric clinical nurse specialist services;  (ll) rehabilitation services;  (mm) renal dialysis services;  (nn) speech and hearing services;  (oo) therapy services: physical, occupational, and speech/language;  (pp) transportation services;  (qq) urgent care clinic services;  (rr) vision care; and  (ss) X-ray/radiology services.</p>	<p>(z) physician services;  (aa) physician assistant services;  (bb) podiatrist services;  (cc) prosthetic services;  (dd) psychiatric clinical nurse specialist services;  (ee) rehabilitation services;  (ff) renal dialysis services;  (gg) speech and hearing services;  (hh) therapy services: physical, occupational, and speech/language;  (ii) transportation services;  (jj) urgent care clinic services;  (kk) vision care; and  (ll) X-ray/radiology services.</p>
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(130 CMR 450.105(A)(1), (B)(1) (differences in bold).)

The only services covered by Standard that are not covered by CarePlus are: adult day health services; adult foster care services; Chapter 766: home assessments and participation in team meetings; day habilitation services; early intervention services; independent nurse (private duty nursing) services; and personal care services. If the appellant believes she requires these intensive services for chronic conditions, she should report herself to be medically frail and complete any requested verifications by MassHealth. However, at this time it is undisputed that the appellant is not the parent or caretaker relative of a child under the age of 19 and she had not reported that she is medically frail to MassHealth. Any decisions MassHealth makes regarding medical frailty would be separately appealable, but this appeal is DENIED.

## Order for MassHealth

Remove Aid Pending.

## 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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Christopher Jones  
Hearing Officer  
Board of Hearings

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