

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2513579
Decision Date:	11/13/2025	Hearing Date:	10/23/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Father

Appearances for MassHealth:
Janine Monico, Tewksbury MEC



*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

Appeal Decision:	Denied	Issue:	Waivers-Kaleigh Mulligan Program
Decision Date:	11/13/2025	Hearing Date:	10/23/2025
MassHealth's Reps.:	Janine Monico, [REDACTED]	Appellant's Rep.:	Father
Hearing Location:	Remote	Aid Pending:	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 25, 2025, MassHealth informed Appellant that Disability Evaluation Services determined that he is not clinically eligible for the Kaleigh Mulligan Program (130 CMR 519.007 and Exhibit 1). Appellant filed this appeal in a timely manner on September 17, 2025 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth/Disability Evaluation Services determined that Appellant is not clinically eligible for the Kaleigh Mulligan Program.

Issue

The appeal issue is whether MassHealth/Disability Evaluation Services was correct, pursuant to 130 CMR 519.007, in determining that Appellant is not clinically eligible for the Kaleigh Mulligan Program.

Summary of Evidence

The MassHealth representative testified that Appellant has been enrolled in MassHealth benefits under the Kaleigh Mulligan Program since August 1, 2019. On August 25, 2025, Disability Evaluation Services (DES) determined that Appellant is no longer clinically eligible and issued notice on August 25, 2025. The DES representative testified that the role of DES is to determine whether Appellant meets the clinical eligibility requirements for the Kaleigh Mulligan Program as described in MassHealth regulations. The Kaleigh Mulligan program is available to severely disabled children under the age of 18 who live at home with their parent(s) and have MassHealth eligibility determined without counting the income and assets of their parent(s). The eligibility requirements for the Kaleigh Mulligan program require that the applicant meet Title XVI disability standards in accordance with the definition of permanent and total disability for children younger than 18 years of age and require a level of care equivalent to that provided in a hospital or nursing facility. On July 28, 2025, Disability Evaluation Services (DES) started a new Kaleigh Mulligan (KM) eligibility review process after receiving Appellant's MassHealth Child Disability Supplement (Exhibit 4, pp. 21-26). This episode was categorized as a Case Alert during the intake process, indicating that additional information, which was the client's current Individualized Educational Plan, had accompanied the supplement (Id., pp. 54-72). Appellant's medical records were obtained after 'request for information' forms, attached to a medical release, were sent to Appellant's only treating source. On August 22, 2025, this treating source responded to DES, allowing the initial review to begin.

According to documentation provided, Appellant is an [REDACTED] with the diagnosis of premature birth with [REDACTED]. [REDACTED] his episode was reviewed by a disability reviewer on August 22, 2025, indicating that the available information was sufficient to determine clinical eligibility. Appellant was approved for the CommonHealth portion of the evaluation; however, the information did not support ongoing clinical eligibility for the KM program. During the KM eligibility assessment review (Id., pp. 27-29), DES determined that a physician operative note confirms that, on [REDACTED] [REDACTED] which verified that Appellant does not require the level of care equivalent to that provided in a hospital or skilled nursing facility. On August 22, 2025, after reviewing all of Appellant's medical records, DES determined that he does not require ongoing use of invasive medical technology or techniques to sustain life. Further, Appellant is ambulatory and does not require direct administration of at least two discrete nursing services daily (Id., pp. 27-29). A final review and endorsement of the determination was completed by a Pediatric Physician Advisor (PA) on August 25, 2025. A MassHealth Denial Letter for the Kaleigh Mulligan Program was mailed to Appellant's parents on August 25, 2025. DES testified that based on the KM eligibility process, and a thorough review of Appellant's medical record by both a DES disability nurse reviewer and DES pediatrician, it is MassHealth's clinical and professional opinion that, at this time, Appellant is not eligible for the KM program. However, Appellant will continue to receive MassHealth

benefits (Id., p. 32).

Appellant's father appeared on his behalf and testified that the [REDACTED], a follow-up surgical procedure was performed. Appellant's father testified that Appellant does not require hospital level of care, the use of invasive medical technology, or skilled nursing services. Appellant's father questioned why eligibility for the Kaleigh Mulligan Program ended because Appellant's overall medical condition has not changed.

Findings of Fact

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

1. Appellant had been enrolled in MassHealth benefits under the Kaleigh Mulligan Program since August 1, 2019.
2. On August 25, 2025, Disability Evaluation Services (DES) determined that Appellant is no longer clinically eligible for the Kaleigh Mulligan program and issued notice on August 25, 2025.
3. On July 28, 2025, Disability Evaluation Services (DES) started a new Kaleigh Mulligan (KM) eligibility review process after receiving Appellant's MassHealth Child Disability Supplement.
4. Appellant's medical records were obtained after 'request for information' forms, attached to a medical release, were sent to Appellant's only treating source. On August 22, 2025, the treating source responded to DES, allowing the initial review to begin.
5. Appellant is an [REDACTED].
6. Appellant was approved for the CommonHealth portion of the evaluation; however, the information did not support ongoing clinical eligibility for the KM program.
7. Appellant's G-tube was removed in [REDACTED].
8. A physician operative note confirms that, on [REDACTED], a gastrostomy closure procedure was performed.
9. Appellant does not require ongoing use of invasive medical technology or techniques to sustain life.

10. Appellant is ambulatory and does not require direct administration of at least two discrete nursing services daily.
11. A MassHealth Denial Letter for the Kaileigh Mulligan Program was mailed on August 25, 2025.

Analysis and Conclusions of Law

Regulation 519.007: Individuals Who Would Be Institutionalized

Regulation 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.

(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.

(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.

Appellant was enrolled in MassHealth benefits under the Kaleigh Mulligan Program since August 1, 2019. On August 25, 2025, Disability Evaluation Services (DES) determined that Appellant is no longer clinically eligible under the KM program and issued notice on August 25, 2025. [REDACTED]

[REDACTED] (BPD), feeding difficulties, and Attention-Deficit/Hyperactivity Disorder (ADHD). Appellant was approved for the CommonHealth portion of the evaluation; however, the information provided to DES does not support ongoing clinical eligibility for the KM program. There is no dispute that Appellant's G-tube was removed in [REDACTED] [REDACTED] follow-up surgical procedure was performed. There is also no dispute that Appellant does not require the level of care equivalent to that provided in a hospital or skilled nursing facility as defined above. Appellant's father confirmed that Appellant does not require ongoing use of invasive medical technology or techniques to sustain life, and that Appellant is ambulatory and does not require direct administration of at least two discrete nursing services daily. Therefore, the MassHealth/DES correctly determined that Appellant does not meet the clinical requirements for the Kaleigh Mulligan Program.

The appeal is DENIED.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Disability Evaluation Services
Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876