

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2517748
Decision Date:	01/09/2026	Hearing Date:	01/08/2026
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearances for MassHealth:

Kiana St. Jean, Tewksbury MEC
Yvette Prayor, RN, Disability Evaluation
Services



*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:	01/09/2026	Hearing Date:	01/08/2026
MassHealth's Reps.:	Kiana St. Jean, Tewksbury MEC; Yvette Prayor, RN, Disability Evaluation Services	Appellant's Rep.:	██████████
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 October 27, 2025, MassHealth informed Appellant that Disability Evaluation Services determined 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 December 1, 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

MassHealth testified that Appellant has been enrolled in MassHealth benefits since December 1, 2021, and was deemed clinically eligible for the Kaleigh Mulligan Program since January 4, 2022. MassHealth testified that a Child Disability Supplement was sent to Appellant May 15, 2025, and was due back to MassHealth by August 15, 2025. The supplement was returned to Disability Evaluation Services (DES). On August 20, 2025, a renewal for the Kaleigh Mulligan Program was mailed to Appellant and was due by October 14, 2025. On October 21, 2025, a termination notice was issued because the renewal was not received within the allowable timeframes, and MassHealth Standard coverage through the Kaleigh Mulligan Program ended on November 4, 2025. On October 27, 2025, DES determined that Appellant is no longer clinically eligible for the Kaleigh Mulligan Program. Appellant returned the renewal form on November 10, 2025; however, because Appellant was no longer eligible for the Kaleigh Mulligan Program, MassHealth coverage was not reactivated.

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 at 130 CMR 519.007. The Kaleigh Mulligan program is available to severely disabled children under the age of 18 and allows eligible children to 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 as outlined at 130 CMR 519.007(A)(3),(4) (Exhibit 4, p. 11). At issue on appeal is whether MassHealth appropriately denied Appellant's application for the Kaleigh Mulligan Program by notice dated October 27, 2025 based on a determination that he does not require a level of care equivalent to that provided in a hospital or nursing facility.

The DES representative testified that Appellant was initially determined disabled for MassHealth child disability and also deemed eligible for the Kaleigh Mulligan program on January 4, 2022 because Hospital Level of Care was met (Id., pp. 1055-1056). Appellant remained eligible for the Kaleigh Mulligan Program until a redetermination review date of January 4, 2025. A new evaluation began on September 4, 2025, when a new MassHealth Child Supplement was received. Appellant's diagnoses include [REDACTED]

[REDACTED] DES requested and obtained medical documentation from Appellant's treating sources (Id. pp. 13 – 23). Once attempts were made to obtain all clinical information,

including documentation from [REDACTED], the redetermination process was completed. The determination is supported by the following documentation:

- [REDACTED], notes FL (Speech) Video Swallow Study, ordered by [REDACTED] on 8/28/24 with results noting trace penetration appreciated which cleared on swallowing. No significant laryngeal penetration or aspiration was appreciated (Id., pp. 59-60).
- [REDACTED], notes follow-up for [REDACTED] on 3/7/25 (Id., pp. 61-65):
 - Tracheotomy hardware was removed on [REDACTED]. On examination no stridor or working to breathe, tolerating secretions.
 - Gastrostomy tube is out, eating consistently without any coughing, choking or concerns for aspiration.
 - Standing with assist and nearly walking with assistance.
- [REDACTED] Daily Note appointment on 10/21/25 (Id., p. 75):
 - Bilateral leg casts donned, good tolerance to treatment.
- [REDACTED] Daily Note appointment on 10/21/25 (Id., p. 78):
 - Increased spontaneous participation in therapy with technology.
- [REDACTED] Daily Note appointment on 10/20/25 (Id., p. 81):
 - Assessment notes improved ability to take up to 12 steps.
- [REDACTED], CCC-SLP, Speech therapist appointment 4/8/25 (Id., p. 620):
 - Notes G-tube removed as of this date.
 - Exam notes improved oropharyngeal swallow function.
- [REDACTED] appointment 8/6/25 (Id., p. 655):
 - Making steady progress with fine motor and self-feeding skills
- [REDACTED] Occupational therapist, initial evaluation 3/18/25 (Id., p. 698):
 - History of NG tube until 4 months of age, G-tube utilized from October 2021-2023.

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. DES testified that Appellant is ambulatory and does not require direct administration of at least two discrete nursing services daily. Following a Kaleigh Mulligan review, the case was also reviewed by a DES pediatrician who agreed that Appellant does not meet eligibility for the Kaleigh Mulligan Program. On October 27, 2025, a denial notice for the Kaleigh Mulligan program was issued.

Appellant was represented by his mother who testified that Appellant does not currently require invasive medical technology and that a tracheostomy tube was removed in [REDACTED] and a G-tube was removed in [REDACTED]. She testified that Appellant is primarily non-ambulatory and takes a maximum of 10 steps independently. Appellant continues to have hearing loss, and his medical conditions have not otherwise changed, although invasive technology is no longer required.

Findings of Fact

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

1. Appellant has been enrolled in MassHealth benefits since December 1, 2021, and had been deemed clinically eligible for the Kaleigh Mulligan Program since January 4, 2022.
2. A Child Disability Supplement was sent to Appellant by MassHealth on May 15, 2025, and was due back to MassHealth by August 15, 2025. The supplement was returned directly to Disability Evaluation Services (DES).
3. On August 20, 2025, a renewal for the Kaleigh Mulligan Program was mailed to Appellant and was due to MassHealth by October 14, 2025. On October 21, 2025, a termination notice was issued because the renewal was not received within the allowable timeframes, and MassHealth Standard coverage through the Kaleigh Mulligan Program ended on November 4, 2025.
4. On October 27, 2025, DES determined that Appellant is no longer clinically eligible for the Kaleigh Mulligan Program.
5. Appellant returned the renewal form to MassHealth on November 10, 2025; however, because Appellant was no longer eligible for the Kaleigh Mulligan Program, MassHealth coverage was not reactivated.
6. Appellant was initially determined disabled for MassHealth child disability and deemed eligible for the Kaleigh Mulligan program on January 4, 2022 because Hospital Level of Care was met.
7. A Kaleigh Mulligan Program evaluation began on September 4, 2025, when a new MassHealth Child Supplement was received.

8. Appellant's diagnoses [REDACTED]
[REDACTED]
[REDACTED]
9. Appellant does not require ongoing use of invasive medical technology or techniques to sustain life. A tracheostomy tube was removed in [REDACTED], and a G-tube was removed in [REDACTED].
10. Appellant does not require direct administration of at least two discrete nursing services daily.

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 January 4, 2022. Disability Evaluation Services (DES) determined that Appellant is no longer clinically eligible under the Kaleigh Mulligan Program and issued notice on October 27, 2025 (Exhibit 1). Appellant's diagnoses include [REDACTED]

[REDACTED] DES determined that Appellant no longer meets the Hospital Level of Care requirement for ongoing use of invasive medical technologies or techniques to sustain life and does not require direct administration of at least two discrete nursing services daily as described at 130 CMR 519.007(A)(3). It is undisputed that a tracheostomy tube was removed in [REDACTED] and a [REDACTED] in October 2024, and no other invasive medical technology is required. It is also undisputed that Appellant does not require the level of care equivalent to that provided in a hospital or skilled nursing facility as defined above. Therefore, MassHealth/DES correctly determined that Appellant does not meet the clinical requirements for the Kaleigh Mulligan Program.¹

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

¹ While outside the scope of the instant appeal which is limited to the clinical determination of ineligibility for the Kaleigh Mulligan Program by notice dated October 27, 2025, it was unclear at hearing why MassHealth/DES did not make a disability determination for CommonHealth eligibility. Post hearing, DES advised that Appellant was determined disabled by DES through January 4, 2027, which was communicated to the MassHealth Enrollment Center and Appellant's mother (Exhibit 6). Appellant can appeal any subsequent notices related to CommonHealth eligibility issued by MassHealth.

receipt of this decision.

Thomas J. Goode
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957