

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2400164
Decision Date:	07/11/2024	Hearing Dates:	2/27/2024 and 6/11/2024
Hearing Officer:	Cynthia Kopka	Record Open to:	6/20/2024

Appearances for Appellant:




Appearances for MassHealth:

Connie Dorvil, Tewksbury MEC (Day 1 only)
Kathryn Begin, Tewksbury MEC (Day 2 only)
Eileen Cynamon, BSN, RN, for DES
Nicole Kallio, OTR/L, observing



*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:	Eligibility – disability determination
Decision Date:	07/11/2024	Hearing Dates:	2/27/2024 and 6/11/2024
MassHealth's Reps.:	Connie Dorvil, Kathryn Begin, Eileen Cynamon	Appellant's Reps.:	
Hearing Location:	Tewksbury (virtual)	Aid Pending:	Yes

Authority

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

Jurisdiction

By notice dated November 7, 2023, MassHealth, through the University of Massachusetts Medical School Disability Evaluation Services (DES), notified Appellant that DES determined that she is not disabled as part of her request for Medicaid health benefits. On December 27, 2023, MassHealth notified Appellant that her MassHealth Standard benefit would terminate after January 31, 2024 because her income exceeded MassHealth's limit. Exhibit 1. Appellant filed this appeal on January 3, 2024 and was eligible to keep benefits pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Termination, modification, or denial of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing was reconvened and the record was held open twice, through June 20, 2024, at Appellant's request. Exhibits 5, 7, 8.

Action Taken by MassHealth

MassHealth determined that Appellant is not disabled and terminated her MassHealth Standard due to income.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant does not meet MassHealth's disability requirements.

Summary of Evidence

The hearing was held on two dates. MassHealth was represented at both virtual hearings by an eligibility representative and a DES appeals reviewer. Appellant appeared at virtual hearing on both hearing dates, and a representative from her adult foster care (AFC) agency appeared on Day 1 only. Documents submitted by both sides before and after both hearing dates are contained in the record. Exhibits 4, 6, 9, and 10. A summary of testimony and documentation follows.

Prior to the events leading to this appeal, Appellant had MassHealth Standard benefits. Due to a change in her income, Appellant no longer qualified for Standard. Appellant reported that her income was \$1,368 biweekly, projected to be \$35,573.47 annually. For a household of two, Appellant's income was at 175.39% of the federal poverty level (FPL). As Appellant was not deemed disabled by DES, Appellant is not eligible for MassHealth's CommonHealth benefit. Appellant is eligible for a subsidized Health Connector plan type 2B. MassHealth's system showed that Appellant now has primary insurance, but it was not reported. Appellant testified that she signed up for insurance through her employer when MassHealth issued its termination and would need a qualifying event to remove the private insurance. Appellant's private insurance was active as of the first hearing date. At the second hearing date, Appellant testified that she would be ending her private insurance as of July 1, 2024, as a Health Connector plan would be less expensive than a plan through her employer. The MassHealth representative explained how premiums would be calculated depending on Appellant's disability status and whether she has primary insurance active. Appellant inquired about expenses, and the MassHealth representative responded that eligibility is only considered based on gross income.

The DES appeals reviewer explained that DES's role is to determine for MassHealth if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES uses a five-step process, which comes from the SSA code of federal regulations to determine an applicant's disability status. See 20 CFR § 416.920; 20 CFR § 416.905; Exhibit 4 at 7. The DES representative testified that under these regulations, disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months. The definition of disability also requires that the applicant have a severe impairment(s) that makes the applicant unable to do past relevant work or any other substantial gainful work that exists in the regional economy.

The DES representative testified that, under 20 CFR § 416.945, what a person can still do despite

an impairment is called his or her residual functional capacity (RFC). Unless an impairment is so severe that it is deemed to prevent an individual from doing substantial gainful activity, it is this RFC that is used to determine whether the individual can still do past work or, in conjunction with age, education and work experience, any other work. *Id.* at 15.

On October 2, 2023, Appellant submitted a MassHealth Adult Disability Supplement to DES, listing the following health problems: eye/vision complaints, post-operative seizures associated with meningioma surgery to remove a brain tumor in November 2022, high blood pressure, weight gain, pre-diabetes, anxiety, depression and noted pain in her legs, thighs, foot, and at times in hands, headaches, leaky/watery eyes, and hearing bells ringing. *Id.* at 54, 55, 58.

DES acquired medical documentation using the medical releases the Appellant provided. The DES representative explained that a review of the medical records was undertaken using a five-step sequential evaluation process, which addresses the following:

Step 1: Is the claimant engaging in substantial gainful activity?

Step 2: Does the claimant have a medically determinable impairment or combination of medically determinable impairments that is both severe and meets the duration requirement (impairment(s) is expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months)?

Step 3: Does the claimant have an impairment(s) that meets an adult SSA listing, or is medically equal to a listing, and meets the duration requirement?

Step 4: Does the claimant retain the capacity to perform any past relevant work?

Step 5: Does the claimant have the ability to make an adjustment to any other work, considering the claimant's residual functional capacity, age, education, and work experience?

Though Appellant marked Step 1 as "Yes," the DES representative testified that Step 1 is waived by MassHealth regardless of whether the claimant is engaging in substantial gainful activity, while on the federal level, engaging in substantial gainful activity will stop the disability review in its entirety. *Id.* at 69-70.

For Step 2, the DES reviewer considered medical records submitted by several of Appellant's providers: [REDACTED] (*Id.* at 92-144), [REDACTED] (*Id.* at 145-264) and [REDACTED] (*Id.* at 265-276). The reviewer marked "Yes," indicating that the Appellant's impairment is severe and expected to last at least twelve months. *Id.* at 70. This directs that the reviewer continue to Step 3.

For Step 3, Appellant's review was marked "No." The reviewer compared the Appellant's medical records to SSA listings found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App. 1. to see if Appellant met such criteria, specifically the adult listings for:

- 1.18 – Abnormality of a Major Joint(s) in any extremity: Medical records submitted did not demonstrate the need for a walker, cane, bilateral crutches, a wheeled or seated mobility device involving the use of both hands, or inability to use one or both upper extremities required to meet Listing 1.18. Exhibit 4 at 72-73, 92-144.
- 2.02 – Loss of Central Visual Acuity: Medical records did not show significant vision loss to meet the listing of 2.02 (Remaining vision in the better eye after best correction is 20/200 or less). *Id.* at 74.
- 11.02 – Epilepsy: Medical records did not demonstrate the frequency of seizures required to meet Listing 11.02. *Id.* at 75-76, 147-148.
- 11.05 – Benign Brain Tumors: Medical records did not meet the listing for 11.05, because the reviewing physician determined that there was no evidence of a residual or recurrent tumor based on the note from Dr. Nahed dated May 25, 2023. *Id.* at 77, 147.
- 12.04 - Depressive, Bipolar and Related Disorders and 12.06 - Anxiety and Obsessive-Compulsive Disorders: The psychological records from social worker did not indicate that Appellant met any of the requirements of listings 12.04 and 12.06, as they indicated that Appellant is currently functioning, working, going to school, and expressing future goals. *Id.* at 78-83, 265-276.

The DES representative testified that for Steps 4 and 5, DES must evaluate the claimant's RFC and complete a vocational assessment. The DES representative explained that the RFC is the most the claimant can still do despite her limitations. The RFC evaluation was based on the Appellant's case record. On October 19, 2023, [REDACTED] a DES staff doctor, performed a physical RFC. [REDACTED] determined that Appellant is capable of performing the full range of sedentary work with postural limitations to never climb ladders/scaffolding and never crouch or crawl. Appellant also has environmental limitations for fumes, noise, machinery, and hazards. *Id.* at 84-85. On November 3, 2023, [REDACTED] D.O., from DES performed a mental RFC and found that Appellant does not have any mental limitations that interfere with her ability to perform work in the competitive labor market. *Id.* at 86-87.

The DES reviewer completed a vocational assessment based on Appellant's educational and work history (*id.* at 56-57) and the RFCs. For Step 4, the reviewer found "No," that Appellant is not able to perform past relevant work (PRW). Appellant's current and PRW falls within the 'light' range and 'skilled' levels of work activities, which exceed Appellant's current capabilities. *Id.* at 69, 71, 56-58. In other words, Appellant's current and past employment is unsustainable for a full time work week given her medical condition.

For Step 5, the reviewer selected, "Yes," at Step 5, because considering the Appellant's age, education, work experience and RFC, DES found that Appellant was qualified to perform work in the regional or national economy. The DES representative cited a medical-vocational guidelines

(vocational grid) ruling 201.15 (*id.* at 27, Program Operations Manual System (POMS) DI 25025.035):

201.00 Maximum Sustained Work Capability Limited To Sedentary Work As A Result Of Severe Medically Determinable Impairment(s)

Table No. 1 - Residual functional capacity: Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).

Rule	Age	Education	Previous work experience	Decision
201.15	Closely approaching advanced age	High school graduate or more – does not provide for direct entry into skilled work	Skilled or semiskilled – skills transferrable	Not disabled

Closely approaching advanced age is defined as between the ages of 50-54. 20 CFR § 404.1563.

DES concluded that Appellant is capable of performing sedentary work and has no current mental limitations that interfere with her ability to perform work in the competitive labor market. While Appellant’s current and past work exceeds her current capabilities, she can perform other work in the national economy. Accordingly, DES determined that Appellant is not disabled pursuant to 20 CFR § 416.966.

The DES representative testified that after denying Appellant’s application for disability, DES received another Adult Disability Supplement and opened a new disability episode on January 3, 2024. The DES representative included the documents received with the new application, which she referred to as “Subsequent Episode: 501 Decision.” *Id.* at 278-328. The documents submitted had incomplete, missing, and/or illegible information on required forms, *id.* at 287-301, and the information provided was insufficient for a disability review. On January 18, 2024, DES mailed a Client Return Letter to Appellant highlighting items which were incomplete or needed correction and listed the DES customer support number for client use. *Id.* at 280. On January 24, 2024, additional records from MGH were uploaded. *Id.* at 302-337. The DES representative testified that these documents did not contain evidence of recent changes in severity or functioning. The DES representative concluded that the additional provider documentation, consistent with the records previously reviewed, supported the determination Appellant is not disabled under SSA Title XVI.

Appellant and her representative testified that Appellant sees additional providers that were not discussed by DES, including therapists, a weight management specialist, an ophthalmologist, and

Appellant's AFC provider. Appellant's seizure medication caused her to gain weight. Appellant has a cataract in her right eye. Appellant lives with an AFC caregiver who assists her with her activities of daily living (ADLs). Appellant's representative from the AFC agency testified that she submitted a letter on Appellant's behalf, but it was not discussed. The DES representative responded that while letters are considered, more weight is put on objective clinical notes, which were not submitted by the AFC agency. The DES representative encouraged Appellant to provide documents from all providers she has seen in the last year who can provide medical records reflecting Appellant's functional capabilities and how her medical conditions are impacting her life and ability to work. Appellant received a recommendation to get a neuropsychology consultation.

Appellant emotionally testified as to the difficult experience she endured after being diagnosed and treated for a brain tumor. Appellant had to advocate for herself with her doctor to get a CT scan at a time when she had just started new employment with the state. Appellant claims that her doctor did not provide sufficient care.

Appellant questioned as to the type of employment DES believes that she could perform, asking about retail positions as examples. Appellant works as an analyst looking at raw data but has had difficulty at work, such as headaches that are caused by looking at a screen. Appellant has a great department with an understanding team. Appellant received an accommodation of a special computer monitor so she can work but has difficulty using her home laptop. Appellant does not want to be on disability when she has a great job. Appellant questioned the medical reviewer's capability of determining her RFC based on one appointment. Appellant requested to provide documentation from other providers.

The DES representative testified that listings are a very high standard that are difficult to meet. Some of the listings reviewed in light of Appellant's conditions did not fit Appellant's diagnoses perfectly, but the closest listings were chosen. DES also reviews the whole circumstance to determine if Appellant meets the intent of a listing. Even if Appellant does not meet a listing per se, a combination of things could equal a listing level. Therefore, it is important to know all of the details that impact Appellant's ability through objective clinical data. The DES representative testified that she is observing how much difficulty Appellant had with the virtual hearing and understands that looking at a screen is challenging, and this needs to be communicated from the doctors.

After hearing day 1, DES reported that Appellant submitted documents from four additional providers during the record open period, including Signature Healthcare LIB Bariatrics, GRE Thoracic Surgery, GRE Cardiology and LIB Pulmonary Office Visit Notes spanning 11/29/22-2/21/24 and a letter from Appellant's AFC caregiver. Exhibit 6 at 32-80, 103-104. Physical therapy records from February, March, and August 2023 were considered historic and did not impact the disability determination. *Id.* at 3, 81-97. The documents from Appellant's AFC agency were not acceptable medical sources, as they were handwritten check forms and not substantive notes supported by an MD, NP, or PA. *Id.* at 98-102, POMS DI 22505.003. Appellant acknowledged on

hearing day 2 that the notes from the AFC provider were insufficient and disappointing.

DES reported that it considered the additional information and the previously reviewed data in its review and decision. *Id.* at 3. In reviewing the additional documents submitted by Appellant and the prior record, DES stood on its determination of Steps 1, 2, and 3. DES did not consider any additional listings in Step 3. *Id.* at 4. For Steps 4 and 5, DES obtained new RFC assessments from two alternate physician advisors. The independent RFCs were used along with the vocational assessment. [REDACTED] completed the physical RFC and concluded that Appellant is able to perform the full range of light work, with postural limitations to never climb ladders/scaffolding and never crouch or crawl. Appellant also has environmental limitations for machinery and heights. *Id.* at 10-11. DES noted that this represents an overall increase in the client's physical functioning as compared to the original RFC of sedentary work by [REDACTED]. However, DES's stance for purposes of this appeal was that Appellant was not disabled as of Step 5. The increase in Appellant's functional capacity found during the record open review was due to the newer records reflecting some improvement in Appellant's abilities.

Additionally, a mental RFC completed by [REDACTED] on April 26, 2024 concurred with the original RFC by [REDACTED], that Appellant does not have any moderate or marked mental limitations that interfere with her ability to perform work in the competitive labor market. *Id.* at 15-16. On the second hearing day, Appellant asked specifically about her mental health notes, which had not been received during the record open period.

Appellant testified that she is making progress but continues to struggle with hearing, vision, coordination, and memory. Appellant struggles for independence and wants to return to working full time but is not capable. Her job as an analyst requires that she look at screens and assist people. Appellant was on FMLA but now works part-time without FMLA. Appellant understands that she has made progress since her surgery, as when she was first post-op she could not walk or speak. However, her meningioma could come back at any time. Appellant has been working since she was 14. Appellant's daughter just graduated high school and Appellant cannot afford any other insurance. Appellant is working with an ADA coordinator for accommodations.

Appellant requested that MassHealth review additional records as part of this review. After the second hearing day, Appellant submitted notes from a mental health therapist and a support group. Exhibit 9. DES responded that the new objective clinical records were consistent with the information previously reviewed. Exhibit 10. DES noted that while Appellant reports having some ongoing symptoms of worry, anxiety and adjustment to illness (primarily financial and work environment), Appellant's Mental Status Exams (MSE) consistently document she presents as alert and fully oriented, cooperative, with euthymic mood and congruent affect, intact speech, thought processes are goal-directed and normal in content, insight and judgement are intact, recent and remote memory are intact, attention and concentration are intact, language intact, fund of knowledge is excellent and client has normal gait/station, muscle strength and tone. *Id.* at 1-2. Appellant also consistently denied thoughts of suicide or self-harm and remained appropriate for

outpatient behavioral health services per notes by [REDACTED], MEd. *Id.* at 2. Appellant was also noted to be alert and fully oriented, friendly, easily engaged and, while tearful in the session, the client was able to express frustration and had ability to self-soothe and talk through those frustrations and ways to cope, per notes with MGH therapist [REDACTED], LCSW. *Id.* DES concluded that the documentation did not provide new findings which would support an SSI listing level approval or indication for revision to the Mental RFC. *Id.* DES upheld the determination of not disabled.

Findings of Fact

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

1. On November 7, 2023, MassHealth issued a notice informing Appellant that she does not meet disability criteria. Exhibit 1.
2. On December 27, 2023, MassHealth notified Appellant that her MassHealth Standard benefit would terminate after January 31, 2024 because her income exceeded MassHealth's limit. *Id.*
3. Appellant filed a timely appeal of both notices on January 3, 2024 and was eligible to retain the benefits pending the outcome of the appeal. Exhibit 2.
4. Appellant is in a household of two with projected annual income of \$35,573.47.
5. In 2023, the FPL for a household of two was \$1,644 monthly and \$19,728 yearly; 133% of the FPL was \$2,186 monthly and \$26,232 yearly.
6. Appellant is between the ages of [REDACTED]. She submitted an adult disability supplement to DES on October 2, 2023 listing the following health problems: eye/vision complaints, post-operative seizures associated with meningioma surgery (November 2022), high blood pressure, weight gain, pre-diabetes, anxiety, depression and noted pain in her legs, thighs, foot, and at times in hands, headaches, leaky/watery eyes, and hearing bells ringing. Exhibit 4 at 54, 55, 58.
7. DES requested and obtained medical documentation using the medical releases Appellant provided and reviewed additional clinical records submitted after the two hearing dates.
8. Step 1 of the 5-step review is waived by MassHealth regardless of the claimant's work status.
9. MassHealth/DES marked Step 2 as "yes," determining that Appellant has a medically

determinable impairment or combination of impairments that is both severe and meets the duration requirement (impairment(s) is expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months). *Id.* at 70.

10. MassHealth/DES marked Step 3 as “no,” having determined that Appellant does not meet or equal applicable adult SSA listings: 1.18 – Abnormality of a Major Joint(s) in any extremity, 2.02 – Loss of Central Visual Acuity, 11.02 – Epilepsy, 11.05 – Benign Brain Tumors, 12.04 - Depressive, Bipolar and Related Disorders, and 12.06 - Anxiety and Obsessive-Compulsive Disorders. *Id.* at 72-83.
11. DES staff physician [REDACTED] determined that Appellant is capable of performing the full range of sedentary work with postural limitations to never climb ladders/scaffolding and never crouch or crawl. Appellant also has environmental limitations for fumes, noise, machinery, and hazards. *Id.* at 84-85.
12. DES staff physician [REDACTED] determined that Appellant does not have any mental limitations that interfere with her ability to perform work in the competitive labor market. *Id.* at 86-87.
13. For Steps 4 and 5, DES completed a vocational assessment using the educational and work history reported on the client supplement and the RFC(s).
14. For Step 4, DES marked “no,” as Appellant’s current and PRW falls within the ‘light’ range and ‘skilled’ levels of work activities, which exceed Appellant’s current capabilities. *Id.* at 69, 71, 56-58.
15. For Step 5, DES marked “yes,” finding that Appellant can perform sedentary work according to vocational grid ruling 201.15. At this step, DES determined that Appellant is not disabled. *Id.* at 27.

Analysis and Conclusions of Law

Disability determination

In order to be found disabled under the MassHealth rules, an individual must be “permanently and totally disabled” as defined in 130 CMR 501.001:

Permanent and Total Disability – a disability as defined under Title XVI of the Social Security Act or under applicable state laws.

(1) For Adults 18 Years of Age and Older.

(a) The condition of an individual, 18 years of age or older, who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that

(i) can be expected to result in death; or

(ii) has lasted or can be expected to last for a continuous period of not less than 12 months.

(b) For purposes of 130 CMR 501.001: Permanent and Total Disability, an individual 18 years of age or older is determined to be disabled only if his or her physical or mental impairments are of such severity that the individual is not only unable to do his or her previous work, but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives, whether a specific job vacancy exists, or whether the individual would be hired if he or she applied for work. "Work that exists in the national economy" means work that exists in significant numbers, either in the region where such an individual lives or in several regions of the country.

The guidelines used by MassHealth to establish disability are the same as those used by the Social Security Administration. Disability is established by (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB); (b) a determination of disability by the SSA; or (c) a determination of disability by the Disability Evaluation Services (DES). 130 CMR 505.002(E)(2). Individuals who meet the Social Security Administration's definition of disability may establish eligibility for MassHealth Standard according to 130 CMR 505.002(F) or CommonHealth according to 130 CMR 505.004. Title XVI of the Social Security Act establishes the eligibility standards and the five-step sequential evaluation process (set forth in the summary *infra*). If a determination of disability can be made at any step, the evaluation process stops at that point.

Step 1 considers whether the applicant is involved in any substantial gainful activity. For MassHealth eligibility purposes, this step is waived. The review proceeds to Step 2, which determines whether the applicant has a severe impairment. To be considered severe, a medically determinable physical or mental impairment must: (1) limit the individual's ability to perform basic work activities; and (2) be expected to result in death or have lasted or be expected to last for a continuous period of not less than 12 months. Here, DES reviewed Appellant's history of meningioma surgery and related eye/vision problems, post-operative seizures, high blood pressure, weight gain, pre-diabetes, anxiety, and depression and determined that these impairments are severe and have lasted, or are expected to last, at least

12 months. As Appellant's reported impairments meet Step 2, the review proceeds to Step 3.

Step 3 requires the reviewer to determine whether the impairment(s) meet certain criteria found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App. 1. DES reviewed Appellant's case in light of the various impairments and determined that Appellant did not meet the Listings 1.18 – Abnormality of a Major Joint(s) in any extremity, 2.02 – Loss of Central Visual Acuity, 11.02 – Epilepsy, 11.05 – Benign Brain Tumors, 12.04 - Depressive, Bipolar and Related Disorders, and 12.06 - Anxiety and Obsessive-Compulsive Disorders. There does not appear to be any error in DES's determination of step 3. Records submitted as part of the hearing record, specifically regarding the mental health aspects of Appellant's ailments, were not so severe as to meet listings 12.04 or 12.06.

The five-step process requires the review to proceed to Step 4 to examine Appellant's residual functional capacity (RFC) using the Social Security Administration's *Medical Vocational Guidelines* (20 CFR Ch. III, Pt. 404, Subpt. P, App. 2) to determine whether Appellant is able to perform previous work. Here, the physician reviewer determined that Appellant, with her restrictions, is capable of performing the full range of sedentary work with postural and environmental limitations. Appellant's current position and past work is light, skilled work, which is outside of Appellant's capabilities. However, given the vocational grid ruling 201.15 and Appellant's capability of performing sedentary work in the regional and national economy, DES determined that Appellant is not disabled for purposes of MassHealth eligibility.

Appellant argued credibly that she has difficulty performing her current work, which was deemed to be outside her capabilities. Appellant questioned what sedentary work she could perform given her difficulty using computer screens and multi-tasking. Appellant argued that she would not be able to perform work such as in retail. Appellant's testimony regarding the impact of having had a brain tumor removed on her physical and mental well-being is credible and moving. Appellant's competing obligations of recovering from a serious medical incident, working, raising her family, and juggling medical appointments and health insurance costs are understandably overwhelming. While sympathetic and laudable, Appellant and the evidence she presented have not reached the high burden of a determination of permanent and total disability. The record supports DES's conclusion that Appellant is not disabled under MassHealth's regulations.

Financial eligibility

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross

income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. An adult under the age of 64 is eligible for MassHealth CarePlus if their income at or below 133% of the FPL. 130 CMR 505.008(A)(2)(c). For MassHealth Standard, the applicant's income must be below a regulatory threshold depending on the categorical eligibility, such as 133% for disabled adults or parents of a child younger than 19. 130 CMR 505.002(C)(1)(a) and 505.002(E)(1)(b).

Here, Appellant's projected annual income is \$35,573.47. This is higher than the 133% limit to qualify for MassHealth CarePlus or MassHealth Standard. Accordingly, Appellant's income is too high for Appellant to be eligible for a MassHealth benefit. Appellant is eligible for a Health Connector plan and can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100.

As the DES determination and eligibility determination were not made in error, 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

cc: Disability Contractor – UMASS