

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2406654
<b>Decision Date:</b>	11/13/2024	<b>Hearing Date:</b>	08/22/2024
<b>Hearing Officer:</b>	Mariah Burns	<b>Record Open to:</b>	10/04/2024

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Eileen Cynamon, RN for MassHealth Disability  
Evaluation Services; Lorena Garcia, Tewksbury  
Enrollment Center



*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; Income; Disability Evaluation Services
<b>Decision Date:</b>	11/13/2024	<b>Hearing Date:</b>	08/22/2024
<b>MassHealth's Reps.:</b>	Eileen Cynamon, RN, et. al.	<b>Appellant's Rep.:</b>	Pro se
<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 March 19, 2024, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant was over the income limit to qualify for benefits. *See* 130 CMR 505.008 and Exhibit 1. On March 26, 2024, the MassHealth Disability Evaluation Services (DES) issued a determination that the appellant is not clinically disabled for purposes of MassHealth eligibility. *See* 130 CMR 501.001 and Exhibit 1. The appellant filed this appeal in a timely manner on April 24, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits and deemed her not disabled for purposes of MassHealth eligibility.

### Issue

The appeal issue is whether MassHealth acted in accordance with the regulations in determining

that the appellant is not disabled within the meaning set forth in the MassHealth regulations and in determining that she does not qualify for any MassHealth coverage types.

## Summary of Evidence

The appellant is an adult under the age of 65 who was a previous MassHealth member. MassHealth was represented by a registered nurse and clinical appeals reviewer for the MassHealth Disability Evaluation Services (DES), as well as a worker from the Tewksbury MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the evidence and testimony provided at the hearing:

In February of 2021, the appellant was administratively approved for a MassHealth Adult Disability determination because, during the COVID-19 pandemic and corresponding federal public health emergency, MassHealth's policy was that no applicant could be deemed not disabled and/or terminated from disability benefits. Now that the public health emergency has lifted, MassHealth has directed DES to re-evaluate all members who were administratively approved to determine their actual clinical eligibility. The appellant submitted her disability supplement to MassHealth on December 27, 2023.

As part of the appellant's disability supplement, she reported suffering from the following health problems: single ventricle heart defect, heart blocks including arrhythmias and a slow heart rate, pacemaker, scoliosis, anxiety, and depression. In reviewing the appellant's application, MassHealth relied on nearly 150 pages of medical records from the appellant's providers. See Exhibit 5 at 101-247.

The MassHealth representative testified that, in making a disability determination for purposes of MassHealth eligibility, DES relies on the evaluation process followed by the Social Security Administration at the federal level. For an applicant who has never had a clinical determination made of their disability, MassHealth/Social Security uses a five-step process as described, *infra*.

Step 1 considers whether the applicant is involved in any substantial gainful activity. For MassHealth eligibility purposes, this step is waived. The review proceeded to Step 2, which determines whether the applicant has a severe impairment. Here, DES reviewed the appellant's history of medical, physical, and mental health/psychiatric complaints and determined that these impairments are severe and have lasted, or are expected to last, at least 12 months. As the appellant's reported impairments meet Step 2, the review proceeded to Step 3.

Step 3 requires the reviewer to determine whether any impairments meet certain criteria found in the federal Supplemental Security Income (SSI) *Listing of Impairments*. See, *infra*. If an applicant meets any of the SSI listings, they are deemed disabled for purposes of MassHealth eligibility. In this case, DES reviewed the appellant's reported medical conditions and reviewed her case

against the following listings: 1.15 – Disorders of the Skeletal Spine resulting in compromise of a nerve root(s), 4.05 – Recurrent Arrhythmias, 4.06 – Symptomatic Congenital Heart Disease, 12.04 - Depressive, Bipolar and Related Disorders, 12.06 - Anxiety and Obsessive-Compulsive Disorders, 12.11 - Neurodevelopmental Disorders.

With respect to each listing, MassHealth found the following:

**1.15 - Disorders of the Skeletal Spine resulting in compromise of a nerve root(s):** To meet this listing, an applicant would need to meet four conditions, one of which includes an “impairment-related physical limitation of musculoskeletal functioning” and evidence of one of the following 1) the assistance of a walker, bilateral canes or crutches, or a wheelchair to ambulate, 2) an inability to use one upper extremity that requires use of the other extremity to operate a hand-held assistive device, or 3) an inability to use both upper extremities. Exhibit 6 at 6-7. The DES evaluator reviewed records from the appellant’s providers, none of which reported that the appellant has any such condition. See Exhibit 5 at 228-231, 237-241, 229-230, 238, 239, 235. The appellant further agreed that she does not meet that requirement. Therefore, DES found that the appellant does not meet this listing.

**4.05 – Recurrent Arrhythmias:** the requirements of this listing were provided by MassHealth at Exhibit 6 at 5. In evaluating this listing, MassHealth relied on the appellant’s medical records from Boston Children’s hospital found at pages 86-184. The MassHealth representative summarized that, because the appellant is able to exercise, ambulate, and otherwise move and function without requiring frequent hospitalizations, the appellant does not meet this listing. The appellant agreed that she is able to exercise without having severe arrhythmias that prevent her from being able to work. Therefore, DES found that the appellant does not meet this listing.

**4.06 – Symptomatic Congenital Heart Disease:** the requirements of this listing were provided by MassHealth at Exhibit 6 at 4. In evaluating this listing, MassHealth relied on the same medical records as for listing 4.05. At the hearing, the MassHealth representative reported that, to meet this listing, MassHealth would need to see an individual who has cyanosis at rest, which would indicate that their blood is not flowing properly. Further, they would need to see secondary pulmonary vascular obstructive disease. The appellant’s records demonstrated none of these conditions. The MassHealth representative further explained that, although the appellant has periods of instability where she requires heart surgery, she responds well to that surgery, and her cardiac function is not severe enough for long enough that it interferes with her functional ability to work.

**12.04 - Depressive, Bipolar and Related Disorders, 12.06 - Anxiety and Obsessive-Compulsive Disorders, 12.11 - Neurodevelopmental Disorders:** the requirements of these listings were provided by MassHealth at Exhibit 6 at 8-16. In evaluating these listings, MassHealth largely relied on a letter provided by the appellant’s psychiatrist, who has been treating the appellant

since 2018. See Exhibit 5 at 244-247. The letter reports that, at the outset of the appellant's treatment, she presented with mood and anxiety disorders and Attention Deficit Disorder, which is common with patients with congenital heart difficulties. *Id.* at 245-246. Since undergoing both pharmacological and psychotherapeutic treatment, the appellant's psychiatrist reports the following:

[The appellant] is an engaged woman who seems younger than her stated age. She is lively and curious. She shows no evidence of mood or anxiety disorder. She is able to consider some of the serious issues she has to deal with given her serious heart condition. There is no evidence of psychosis or thought difficulties. Her memory and fund [sic] of knowledge is good. Sleep is at baseline good, but when stressed she has difficulty falling asleep with sleep latency up to several hours. This has been remedied with Trazadone prn. There has been no history of suicidal thoughts or actions. There is no history of impulsivity disorder. There is no history of substance use disorder.

*Id.* at 256-247. Based on these records, MassHealth determined that the appellant does not meet any of the mental-health related SSI listings. Because DES found that the appellant does not meet any of the relevant SSI listings, the evaluation moved on to Step 4.

Both Steps 4 and 5 require the reviewer to complete an evaluation of the applicant's residual functional capacity (RFC). DES uses the Social Security Administration's *Medical Vocational Guidelines* (20 CFR Ch. III, Pt. 404, Subpt. P, App. 2) to determine whether an applicant can perform previous work or is able to make an adjustment to other work. This requires the evaluator to conduct both a physical and mental assessment of the applicant's RFC. See Exhibit 5 at 75-79.

The physical RFC requires the evaluator to determine what, if any, exertional, postural, manipulative, visual, communicative, and/or environmental limitations the applicant possesses that could affect their ability to work. In this case, the physician reviewer found that the appellant has limited exertional limitations beyond lifting over 20 pounds and sitting or walking for over 6 hours. The reviewer found that the appellant should never be able to climb ladders or scaffolding, but should otherwise be able to balance, climb stairs, stoop, crouch, kneel, or crawl at least frequently. The reviewer found that the appellant has no limitations with reaching, handling, or feeling, no visual limitations, and no communicative limitations. Finally, the reviewer found that the appellant possesses only environmental limitations with respect to hazards such as machinery or heights, but otherwise has the ability to function around noise, fumes, extreme temperatures, humidity, and/or vibrations. The appellant provided no evidence or testimony to refute these findings.

The mental RFC requires the physician reviewer to determine what, if any, limitations the applicant has with respect to understanding and memory, training and supervision, sustained concentration and persistence, social interaction, and adaptation. In this case, the physician

reviewer found that the appellant was not limited with carrying out short and simple instructions and with her ability to make simple work-related decisions. She was found to be slightly limited with her ability to carry out detailed instructions, learn tasks and adapting to a new work setting, sustain familiar work, work in proximity to others without being distracted, respond appropriately to criticism, maintain socially appropriate behavior, respond appropriately to changes, be aware of normal hazards, and ability to travel outside of the home. Finally, she was found to be moderately limited with her ability to maintain attention and concentration, work at a consistent pace, interact and cooperate appropriately with coworkers, and interact appropriately with the general public. She was not found to be markedly limited with respect to any tasks. The appellant reiterated that her energy level due to her heart issues and her ability to concentrate due to her ADHD make it difficult to get through an 8 hour work day.

Here, the physician reviewer determined that the appellant, with her restrictions, can perform the full range of light work without climbing and while limiting environmental exposure to hazards. See Exhibit 5 at 75-77. DES further determined that the appellant can perform “basic, unskilled work activity” in a competitive labor market, with consideration for moderate limitations in attention, concentration, pace, and interacting appropriately with coworkers and general public. *Id.* at 78. The appellant’s current position and past work is light, skilled work, which is MassHealth determined to outside of her capabilities.

Step 4 requires the reviewer to determine whether, using the RFC assessment, an applicant is capable of doing “past relevant work”. In this case, DES found that the appellant’s previous work as a Merchandise Planner and a Data Analyst exceeds the appellant’s current capabilities. Therefore, the review moves on to Step 5.

Step 5 requires the reviewer to determine whether, using the RFC assessment, along with an applicant’s age, education and work experience, an applicant can “make an adjustment to work”. 20 CFR § 416.920(a)(4)(v). In making this determination, DES discerns whether an applicant is capable of performing any jobs “available within both the regional and national economy.” *Id.* In this case, DES found that the appellant is capable of other work such as a library assistant, records clerk, or general office clerk. See Exhibit 5 at 64. Therefore, DES found that the appellant is not disabled for purposes of MassHealth eligibility.

The appellant testified that although she does currently work a desk job, her heart condition physically and mentally exhausts her to the point that she often finds it difficult to get through an eight-hour workday. She also reported that her diagnosed ADHD can affect her ability to sleep, which perpetuates her exhaustion and negatively affects her mental acuity in being able to perform her job adequately. The record was kept open to allow the appellant time to review MassHealth’s evaluation of the relevant SSI listings and to provide any additional information she may have. The appellant declined to provide any additional information or documentation after the hearing.

Additionally, MassHealth determined that the appellant is over the income to qualify for any MassHealth coverage type. The appellant does not challenge this finding, but instead argues that she should have been deemed disabled within the meaning of the MassHealth regulations so she can qualify for MassHealth CommonHealth benefits.

## Findings of Fact

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

1. The appellant is an adult under the age of 65 who agrees that she does not meet the income requirements to qualify for MassHealth benefits. Testimony, Exhibit 1, Exhibit 4.
2. In February of 2021, the appellant was administratively approved for a MassHealth Disability consistent with federal and MassHealth policy prohibiting any disability applicants from being denied during the federal public health emergency due to the COVID-19 pandemic. Testimony, Exhibit 5 at 248.
3. On or about December 27, 2023, the appellant submitted a MassHealth Disability Supplement for DES evaluation. Testimony, Exhibit 5 at 248. With her disability supplement, the appellant reported that she suffers from the following health issues: single ventricle heart defect, heart blocks including arrhythmias and a slow heart rate, pacemaker, scoliosis, anxiety, and depression. Exhibit 5 at 56. In reviewing the appellant's application, MassHealth relied on nearly 150 pages of medical records from the appellant's providers. See Exhibit 5 at 101-247.
4. Step 1 of the 5-step review is waived by MassHealth regardless of the claimant's work status. Testimony, Exhibit 5 at 63.
5. MassHealth/DES marked Step 2 as "yes," determining that the 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). Exhibit 5 at 63.
6. MassHealth/DES marked Step 3 as "no," having determined that the appellant does not meet or equal applicable adult SSI listings: 1.15 – Disorders of the Skeletal Spine resulting in compromise of a nerve root(s), 4.05 – Recurrent Arrhythmias, 4.06 – Symptomatic Congenital Heart Disease, 12.04 - Depressive, Bipolar and Related Disorders, 12.06 - Anxiety and Obsessive-Compulsive Disorders, 12.11 - Neurodevelopmental Disorders. Testimony, Exhibit 5 at 63, Exhibit 6 at 2-18.
7. The appellant is able to ambulate without assistance. Testimony, Exhibit 5 at 228-231, 237-241, 229-230, 238, 239, 235. She does not have cyanosis at rest nor do her medical records show

evidence of pulmonary vascular obstructive disease. Testimony, Exhibit 5 at 86-184. The appellant can exercise, ambulate, and move around without experiencing severe arrhythmias. *Id.* Although she does sometimes require surgery for her heart condition, she responds well to treatment and her cardiac function is not severe enough or long enough to meet any SSI listings. Testimony.

8. Based on her psychiatrist's report, the appellant shows no sign of a mood or anxiety disorder, psychosis, suicidal thoughts or actions, or impulsivity disorder. Exhibit 5 at 246-247.

9. The DES staff physician determined that the appellant is capable of performing the full range of light work with postural limitations to never climb ladders/scaffolding. The appellant also has environmental limitations for hazards. Exhibit 5 at 75-77.

10. The DES staff physician determined that the appellant is capable of performing basic, unskilled work in the competitive labor market with moderate limitations in attention, concentration, pace, and interacting appropriately with coworkers and the general public. Exhibit 5 at 78-79.

11. 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). Testimony, Exhibit 5 at 64.

12. For Step 4, DES marked "no," as the appellant's current and past relevant work falls within the 'skilled' levels of work activities, which exceed the appellant's current capabilities. Exhibit 5 at 64.

13. For Step 5, DES marked "yes," finding that Appellant can perform basic, unskilled work, such as a library assistant, a records clerk, or an office clerk, all of which are available in the regional and national economy. Exhibit 5 at 64, 80-81. At this step, DES determined that Appellant is not disabled. *Id.* at 64, 82. This determination was made on March 26, 2024. Exhibit 1.

14. The appellant appealed the DES- determination that she is not disabled in a timely manner on April 24, 2024. Exhibit 2.

15. The appellant currently works a desk job. Her heart condition physically and mentally exhausts her to the point that she often finds it difficult to get through an eight-hour workday. She credibly reported that her diagnosed ADHD can affect her ability to sleep, which perpetuates her exhaustion and negatively affects her mental acuity in being able to perform her job adequately. Testimony.



## Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a particular MassHealth coverage type for individuals who are under age 65. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) *Standard* - for pregnant women, 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 members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) *CommonHealth* - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) *CarePlus* - for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) *Family Assistance* - for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) *Small Business Employee Premium Assistance* - for adults or young adults who
  - (a) work for small employers;
  - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
  - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
  - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) *Limited* - for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) *Senior Buy-In and Buy-In* - for certain Medicare beneficiaries.

130 CMR 505.001(A).

In this case, the appellant agrees that she is over the income limits to qualify for all MassHealth coverage types beyond MassHealth CommonHealth. The question, then, is whether she meets the categorical requirements for CommonHealth. To qualify for MassHealth CommonHealth, a disabled working adult must meet the following:

- (1) be 21 through 64 years of age (for those 65 years of age or older, see 130 CMR 519.012: MassHealth CommonHealth);

- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;
- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms;
- (4) be a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens;
- (5) be ineligible for MassHealth Standard; and (6) comply with 130 CMR 505.004(J).

130 CMR 505.004. There is no dispute that the appellant meets all of the qualifications beyond being permanently and totally disabled. Thus, that is the only issue on appeal. A member or applicant may demonstrate their permanent and total disability by meeting the following:

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.

130 CMR 501.001. For purposes of MassHealth eligibility, disability is established by (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB); (b) a determination of disability by the Social Security Administration (SSA); or (c) a determination of disability by the MassHealth Disability Evaluation Services (DES). 130 CMR 505.002(E)(2). Here, there is no evidence that the appellant has been deemed legally blind by MCB or disabled by

the SSA, and therefore the only avenue by which the appellant may be considered disabled is through a DES evaluation.

As stated at the hearing, the guidelines used by DES to establish disability are the same as those used by the SSA. Individuals who meet the SSA'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. Applicants who have never been deemed clinically disabled undergo a the five-step sequential evaluation process as established by Title XVI of the Social Security Act:

(4) *The five-step sequential evaluation process.* The sequential evaluation process is a series of five “steps” that we follow in a set order. See paragraph (h) of this section for an exception to this rule. If we can find that you are disabled or not disabled at a step, we make our determination or decision and we do not go on to the next step. If we cannot find that you are disabled or not disabled at a step, we go on to the next step. Before we go from step three to step four, we assess your residual functional capacity. (See paragraph (e) of this section.) We use this residual functional capacity assessment at both step four and at step five when we evaluate your claim at these steps. These are the five steps we follow:

(i) At the first step, we consider your work activity, if any. If you are doing substantial gainful activity, we will find that you are not disabled. ( See paragraph (b) of this section.)

(ii) At the second step, we consider the medical severity of your impairment(s). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in § 416.909, or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. (See paragraph (c) of this section.)

(iii) At the third step, we also consider the medical severity of your impairment(s). If you have an impairment(s) that meets or equals one of our listings in appendix 1 to subpart P of part 404 of this chapter and meets the duration requirement, we will find that you are disabled. (See paragraph (d) of this section.)

(iv) At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. If you can still do your past relevant work, we will find that you are not disabled. See paragraphs (f) and (h) of this section and § 416.960(b).

(v) At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. If you can make an adjustment to other work, we will find that you are not disabled. If you cannot make an adjustment to other work, we will find that you are disabled. See paragraphs (g) and (h) of this section and § 416.960(c).

20 CFR § 416.920(a)(4)). If a determination of disability can be made at any step, the evaluation process stops at that point.

The Board of Hearings has “exclusive jurisdiction to hear appeals relating to the programs administered by the MassHealth agency...” 130 CMR 610.002. Among the grounds for an appeal are “denial of an application or request for assistance, or the right to apply or reapply for such assistance...[and] individual MassHealth agency determinations regarding scope and amount of assistance.” 130 CMR 610.032(A)(1) and (5). An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” 130 CMR 610.085(A).

In this case, at issue is whether the appellant has demonstrated, by a preponderance of the evidence, that she has met the standards to qualify as disabled for purposes of MassHealth eligibility. After reviewing the evidence, I find that she has not met that burden of proof. The DES evaluators waived Step 1 and found the appellant’s conditions severe at Step 2. The review then proceeded to Step 3.

### **MassHealth’s Step 3 Evaluation**

Step 3 requires the evaluating agency, in this case DES, to determine whether the applicant meets an SSI “listing” as defined by the SSA. See 20 CFR § 416.920(a)(4)(iii). Those listings can be found at 20 CFR Ch. III, Pt. 404, Subpt. P, App. 1. A listing, as explained by the MassHealth representative, is basically a condition that, if severe enough, would allow the SSA (and MassHealth) to deem the individual disabled. In this case, DES reviewed listings based on the appellant’s reported medical conditions: 1.15 – Disorders of the Skeletal Spine resulting in compromise of a nerve root(s), 4.05 – Recurrent Arrhythmias, 4.06 – Symptomatic Congenital Heart Disease, 12.04 - Depressive, Bipolar and Related Disorders, 12.06 - Anxiety and Obsessive-Compulsive Disorders, 12.11 - Neurodevelopmental Disorders.

The MassHealth representative credibly reported having conducted a thorough review of the appellant’s medical records with respect to each listing. In essence, she testified that the appellant is able to exercise, move around, and have periods of stability wherein her functioning is not severe. Although the appellant does have trouble concentrating, her providers indicate that she has no evidence of a mood or anxiety disorder that prevents her from working. The MassHealth representative explained that, in order to meet any of the cardiac or spinal listings, the appellant would essentially have to be bed bound and unable to care for herself. The appellant agreed that her condition is not as severe as that, and credibly testified that her struggles are with energy level and mental acuity to perform her job. She provided no additional evidence beyond the records reviewed by MassHealth. She did not provide any testimony herself, through counsel, or through

a medical professional that supports a conclusion that she meets one of the listings.

I find that the appellant has not demonstrated that DES/MassHealth made any error in its determination that she does not meet any of the relevant SSI listings that would deem her disabled. I therefore find that MassHealth properly executed its Step 3 evaluation of the appellant's disability application.

At Step 4, MassHealth determined that the appellant cannot perform her past work. The review then proceeded to Step 5.

### **MassHealth's Step 5 Evaluation**

Prior to completing steps 4 and 5, the DES evaluator completed an evaluation to determine the appellant's residual functional capacity (RFC). *See* 20 CFR § 416.920(a)(4)(iv) and (v); *see also*, 20 CFR § 416.945 ("Your residual functional capacity is the most you can still do despite your limitations."). The RFC evaluation considers both the applicant's physical and mental abilities in determining what, if any, limitations they have on their ability to work. *See generally, Id.* In this case, the appellant provided no evidence to suggest that the RFC evaluations conducted by the DES physician reviewers were inaccurate.

Step 5 requires the evaluating agency to use the RFC assessment to determine whether an applicant who cannot do their past relevant work could make an adjustment to be able to complete other work. In this case, MassHealth, in part, relied on the fact that the appellant is still performing a corporate desk job. Based on that, as well as the findings of the RFC, the evaluator found that there are at least three jobs the appellant is capable of doing. Although the appellant credibly testified that she struggles with focus, energy levels, and mental acuity, she provided no evidence or testimony that these limitations render her incapable of performing her current job or any other work. Therefore, I find that she has not demonstrated that DES/MassHealth made any error in its Step 5 determination, and thus its determination, writ-large, that she does not meet the clinical requirements to be disabled for purposes of MassHealth eligibility.

Because the appellant does not challenge MassHealth's determination of her financial eligibility for any MassHealth coverage type, and because I find no error with DES's determination that the appellant is not clinically disabled, I find that there is no MassHealth coverage type for which the appellant is both categorically and financially eligible. There was, therefore, no error in DES's March 26, 2024, determination notice, nor was there any error with MassHealth's March 19, 2024, denial notice.

For the foregoing reasons, the appeal is hereby DENIED.

If, at any point, the appellant's condition changes or she is deemed blind by the MCB or disabled by the SSA, she should provide such information to MassHealth. The appellant 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.

## **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.

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Mariah Burns  
Hearing Officer  
Board of Hearings

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

MassHealth Representative: Eileen Cynamon, RN, MassHealth Disability Evaluation Services