

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409370
Decision Date:	3/10/2025	Hearing Date:	02/24/2025
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearances for MassHealth:

Yvette Prayor (UMass DES); Brad Goodier (UMass DES); Elizabeth Nickoson (Taunton 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:	Disability Requirements
Decision Date:	3/10/2025	Hearing Date:	02/24/2025
MassHealth's Reps.:	Yvette Prayor (UMass DES); Brad Goodier (UMass DES); Elizabeth Nickoson (Taunton MEC)	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone	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 May 20, 2024, UMass Disability Evaluation Services, a unit that determines permanent and total disability of MassHealth applicants or members, notified the appellant that they determined that he is not disabled according to federal and state laws and regulations. (130 CM R 501.000; Exhibit 1). An appeal was filed on June 12, 2024. (130 CMR 610.015; Exhibit 2). On November 22, 2024, the Board of Hearings dismissed the appeal as the appellant did not provide a copy of the notice from MassHealth. (130 CMR 610.034; 130 CMR 610.035; Exhibit 3). The appellant provided a copy of the notice, the Board of Hearings vacated the dismissal and scheduled a hearing for February 3, 2025. (130 CMR 610.048; Exhibit 4). The Board of Hearings subsequently rescheduled the hearing for February 24, 2025. (Exhibit 5).

An agency action to suspend, reduce, terminate, or restrict a member's assistance, and a change in the scope or amount of assistance are valid grounds for appeal. (130 CMR 610.032(A)(3); 130 CMR 610.032(A)(5)).

Action Taken by MassHealth

MassHealth determined that the appellant is not disabled according to federal and state laws and regulations. (130 CMR 501.000).

Issue

Whether MassHealth was correct in determining that the appellant is not disabled according to federal and state laws and regulations.

Summary of Evidence

All parties appeared by telephone. MassHealth representatives from the Taunton MassHealth Enrollment Center (Taunton MEC) and the UMass Disability Evaluation Services (DES) offered testimony regarding the appellant's financial eligibility for MassHealth as well as the evaluation of his disability claims. Documents submitted by MassHealth were incorporated into the hearing record as Exhibit 6 and Exhibit 7.

The Taunton MEC representative testified that the appellant has bi-weekly income of \$1,500, or monthly income of \$3,250. The Taunton MEC representative testified that this income places the appellant at 254% of the federal poverty level. The Taunton MEC representative testified that to be eligible for MassHealth, individuals need to have income below 133% of the federal poverty level, or \$1,670 each month for a family group of one unless they have been deemed disabled or meet another eligibility category that may allow for a higher income standard.¹

The appellant's representative did not challenge the family group composition presented by the Taunton MEC representative. The appellant's representative testified that the appellant makes \$18 an hour, working 40 hours each week and at times gets paid for overtime. Working 40 hours each week at \$18 an hour results in a weekly income of \$720 and a monthly income of \$3,119 [$\$720 \times 4.333 = \$3,119$]. Utilizing the regulatory disregard of \$62.75 results in countable income of \$3,056.25 which places the appellant at 243.52% of the federal poverty level [$\$3,056.25 \div \$1,255 = 243.52\%$]. This amount still exceeds 133% of the federal poverty level.

As the appellant's representative did not have any additional questions regarding financial eligibility, and the Taunton MEC representative did not have any further testimony or evidence, the parties agreed with the decision to dismiss the Taunton MEC representative from the hearing.

¹ This calculation is based upon the income standards and federal poverty level guidelines that were in effect at the time of the eligibility decision on appeal. In March, 2025 MassHealth updated their income standards and federal poverty guidelines with a calculation of 133% of the federal poverty level as \$1,735.

DES received a completed disability supplement from the appellant in March 2024. (Testimony; Exhibit 6; Exhibit 7). The DES representative testified that while there was enough information to assess the appellant's health conditions, the documentation was deemed insufficient as several providers had not seen the appellant in the last 12 months. (Testimony; Exhibit 6; Exhibit 7). Therefore, DES scheduled its own consultative examination (CE).

In making a disability determination, DES applies the following five-step sequential evaluation process established by the Social Security Act for the purpose of determining eligibility for MassHealth:

- Step 1: Is the applicant engaged in substantial gainful activity?
- Step 2: Does the applicant have a medically determinable impairment (MDI) or combination of MDIs that is both severe and expected to last for a continuous period of not less than 12 months?
- Step 3: Does the impairment meet or equal criteria listing established by the Social Security Administration?
- Step 4: Can the applicant retain the capacity to perform past relevant work?
- Step 5: If the applicant is not able to perform past work, is the applicant able to perform any other work, considering the applicant's residual functional capacity (RFC), age, education, and work experience?

Step 1 is waived for MassHealth eligibility purposes. The DES review progressed to Step 2. The DES representative testified that the appellant listed the following health issues on the supplement: depression; anxiety disorder; mood disorder; Attention Deficit Hyperactivity Disorder (ADHD) (high spectrum); and social anxiety disorder. (Testimony; Exhibit 6; Exhibit 7).

In performing this review, DES utilized the disability supplement submitted by the appellant, records from the appellant's providers and a consultative exam (CE). (Testimony; Exhibit 6; Exhibit 7).

The appellant graduated from high school, received training in digital photography at [REDACTED] and is currently working. (Exhibit 6; Exhibit 7). On the disability supplement the appellant states that his medical or mental health conditions cause problems at work as he is unable to be given verbal daily tasks and keep track of them. (Exhibit 6). The appellant states that the tasks had to be broken down and listed so he could keep track of the details and order in which activities needed to be completed. (Id.). The disability supplement provides a work history from 2012 to present. (Id.).

June 2023 medical records from the appellant's provider state that the appellant reports doing

well overall, continuing to work full-time, and enjoying free time with his girlfriend. The provider notes that the appellant's attention deficit symptoms are well controlled with the current medical regimen, which he is tolerating well without side effects. The appellant denied significant depressive symptoms, irritability, mood lability or anxiety. Other providers noted that they did not have records for the timeframe specified by DES which was within the last 12 months of a request sent in March 2024.

As the records presented by the appellant's provider were almost a year older than the time of the evaluation by DES and the appellant did not have more recent records from providers listed on the disability supplement, the appellant was referred to a psychiatric CE which evaluated the appellant for ADHD; mood disorder, social anxiety and depression. (Testimony; Exhibit 6; Exhibit 7). The psychiatric CE was performed in May 2024. The psychiatric CE notes that the appellant has been involved with mental health services since he was in elementary school. (Exhibit 6). The appellant has been on a variety of medications including the current medications of [REDACTED] (Id.). The appellant scored 30/30 on a mini mental status exam, suggesting that there is not significant cognitive dysfunction. (Id.). The diagnoses on the psychiatric CE state that the appellant appears to be without intellectual impairment and has good enough social skills to function on the job and with family and some friends. (Id.). The CE states that the appellant is easily distracted and has become depressed in the past, and currently requires support to continue to function in the world but can hold jobs and interact with others if they are not stressful encounters. (Id.).

Based upon the information received from the appellant's providers and the CE, MassHealth determined that the appellant had a combination of medically determinable impairments that are both severe and expected to last for a continuous period of not less than 12 months. The evaluation progressed to Step 3.

At Step 3, DES had to determine whether the appellant's impairments met the criteria in the adult listings established by the Social Security Administration (SSA), or are medically equal to a listing for a period of 12 months or more. In their evaluation, DES compared the appellant's impairments with the SSA listings at 12.04 for Depressive, Bipolar and Related Disorders; 12.06 for Anxiety and Obsessive-Compulsive Disorders; and 12.11 for Neurodevelopmental Disorders, and determined that the appellant did not satisfy the criteria for these listings.

The DES review progressed to Step 4 to determine if the appellant retains the capacity to perform any past relevant work. The appellant reported a significant work history and DES determined that this past work exceeds the appellant's current capabilities. The review progressed to Step 5 to determine if the appellant can perform any other work, considering his residual functional capacity (RFC), age, education and work experience.

At Step 5, DES concluded that the appellant is capable of performing work as a building cleaning worker; maid and housekeeping cleaner; and landscaping and groundskeeping worker. The DES representative testified that the appellant does not meet or equal the high threshold of the adult

SSA disability listings. Additionally, records from the appellant, providers and the agency indicate that the appellant is capable of performing work in the competitive labor market and there are a significant number of jobs in the regional and national economy which the appellant can perform based on his physical and mental capabilities, as well as his vocational qualifications. (Testimony; Exhibit 6; Exhibit 7). As a result of this final finding, DES determined that the appellant is not disabled.

The appellant's mother testified that the appellant is working now but has had to walk off the job in the past due to incidents related to his current conditions. The appellant's mother testified that the appellant does not need to be seen by providers more than one time each year, which is the reason why they did not have records from the past 12 months. The appellant's mother asked MassHealth to consider the fact that the appellant requires accommodations at work due to his current conditions. The appellant's mother testified that she did not agree with the conclusions presented by MassHealth regarding the work that the appellant is capable of performing, as he can do more than what they listed. The appellant's mother testified that on the day of the CE the appellant appeared well as he was on his medications. The appellant's mother testified that the appellant comes home from work and goes to sleep for the rest of the day. The appellant's mother testified that if the appellant does not take his medications, he cannot function. The appellant's mother argued that the system is flawed as they should look beyond a 12-month period.

Findings of Fact

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

1. The appellant is a family group of 1 with monthly income of \$3,250.
2. The appellant's countable income is at 254% of the federal poverty level.
3. DES received documents necessary to begin an initial disability evaluation in March 2024.
4. A review of appellant's medical condition was undertaken by DES using a five-step sequential evaluation process established by Title XVI of the Social Security Act for the purpose of determining eligibility for medical assistance.
5. The five-step sequential evaluation process addresses the following:
 - Step 1: Is the applicant engaged in substantial gainful activity?
 - Step 2: Does the applicant have a medically determinable impairment (MDI) or combination of MDIs that is both severe and expected to last for a continuous period of not less than 12 months?

Step 3: Does the impairment meet or equal criteria listing established by the Social Security Administration?

Step 4: Can the applicant retain the capacity to perform past relevant work?

Step 5: If the applicant is not able to perform past work, is the applicant able to perform any other work, considering the applicant's residual functional capacity (RFC), age, education, and work experience?

6. The appellant graduated from high school, received training in digital photography at [REDACTED] and is currently working.
7. The appellant showed a work history dating back to 2016.
8. The appellant has been involved with mental health services since elementary school.
9. The appellant has been on a variety of medications including the current medications of [REDACTED]
10. The only medical records presented by the appellant's providers were from June 2023.
11. Those records state that the appellant has stable mood and attentional symptoms with his current medication regimen, which he is tolerating well without side effects.
12. The appellant had not seen other providers within 12 months prior to a request for records sent in March 2024.
13. A May 2024 psychiatric CE evaluated the appellant for ADHD, mood disorder, social anxiety and depression.
14. The appellant scored 30/30 on a mini mental status exam suggesting that there is no significant cognitive dysfunction.
15. A psychiatric CE states that the appellant appears to be without intellectual impairment and has good enough social skills to function on the job.
16. MassHealth determined that the appellant had a combination of medically determinable impairments that are both severe and expected to last for a continuous period of not less than 12 months.
17. The appellant's impairments did not satisfy the criteria for the following SSA listings: 12.04 for Depressive, Bipolar and Related Disorders; 12.06 for Anxiety and Obsessive-

Compulsive Disorders; and 12.11 for Neurodevelopmental Disorders.

18. The appellant's work history exceeds the capabilities determined by DES.
19. The appellant can perform work as a building cleaning worker; maid and housekeeping cleaner; and landscaping and groundskeeping worker.

Analysis and Conclusions of Law

A disabled adult [REDACTED] is eligible for MassHealth Standard if they are permanently and totally disabled as defined in 130 CMR 501.001. (130 CMR 505.002(E)(1)). The regulations define disabled as having a permanent and total disability. (130 CMR 501.001). 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)).

The MassHealth Disability Evaluation Services (DES), is a unit that consists of physicians and disability evaluators who determine permanent and total disability of an applicant or member seeking coverage under a MassHealth program. for which disability is a criterion. (130 CMR 501.001). In making a disability determination, DES uses the criteria established by the Social Security Administration under Title XVI, and criteria established under state law. (130 CMR 501.001). The Social Security Administration defines disability 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 12 months. (20 CFR 416.905(a)).

Title XVI of the Social Security Act establishes the eligibility standards, and both the five-step sequential evaluation for initial disability determinations, and the eight-step process for ongoing disability determinations. In this case, the five-step process was used because there was no initial review performed by MassHealth or the Social Security Administration. In determining eligibility for MassHealth, Step 1 is waived. At Step 2, DES determined that appellant has severe impairments. The determination was made based on medical documentation from the appellant's providers as well as consultative exams. (Testimony; Exhibit 6; Exhibit 7).

In determining whether the appellant's impairments met a listing established by the Social Security Administration, DES compared the appellant's reported conditions to the SSA listings at 12.04 for

depressive, bipolar and related disorders; 12.06 for anxiety and obsessive-compulsive disorders; and 12.11 for neurodevelopmental disorders. DES determined that the appellant's conditions did not satisfy the requirements for any of these listings.

The mental residual functional capacity worksheet, work history and medical records show that the appellant is able to perform some work. While the appellant's mother testified that the appellant has limitations at his current positions, the fact that she argued that the appellant is capable of performing jobs beyond those listed by DES demonstrates that the appellant does not meet the criteria to be deemed disabled.

The appellant's representative did not provide sufficient testimony or evidence to demonstrate that the appellant meets any of the financial or categorical criteria to be deemed eligible for any other MassHealth programs.

The decision made by MassHealth was correct. This 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

cc: MassHealth Representative: Yvette Prayor, RN, UMass Disability Evaluation Services Appeals Unit, 333 South Street, Shrewsbury, MA 01545