

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2413419
Decision Date:	11/12/2024	Hearing Date:	October 10, 2024
Hearing Officer:	Stanley Kallianidis		

Appellant Representative:



MassHealth Representatives:

Liz Nickoson, Taunton MEC
DES: Eileen Cynamon, BSN, RN



***Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171***

APPEAL DECISION

Appeal Decision:	Denied	Issues:	Disability; Income
Decision Date:	11/12/2024	Hearing Date:	October 10, 2024
MassHealth Reps.:	E. Cynamon, BSN, RN	Appellant Rep.:	██████
Hearing Location:	Taunton MEC	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

The appellant received a notice dated August 28, 2024 stating that she does not qualify for MassHealth because her income is too high, and because she is not disabled (Exhibit 1). The appellant filed this appeal timely on September 16, 2024 and has continued to receive aid pending the outcome of this appeal (See 130 CMR 610.015(B) and Exhibit 2). The denial of assistance is valid grounds for appeal (130 CMR 610.032).

On September 11, 2024, a hearing notice was sent to the parties (Exhibit 3).

Action Taken by MassHealth

The appellant was determined to be not disabled and over income for MassHealth eligibility.

Issue

Is the appellant over income for MassHealth or is she permanently and totally disabled and therefore eligible for MassHealth CommonHealth?

Summary of Evidence

A MassHealth representative testified the appellant, an adult over 19 years of age, has a household of three people with monthly income of \$3,666.00 monthly which is 165% of the federal poverty level (FPL). To be eligible for MassHealth an individual in a household of three must have income of no more than \$2,862.00, which is 133% of the FPL. The appellant is therefore over the income standards for MassHealth.

The appellant is currently on MassHealth Standard due to her appeal. She had been protected due to the Covid Public Health Emergency and for one year under Transitional Medical Assistance. The MassHealth representative also indicated that the appellant is eligible for Connector Care insurance.

The MassHealth Appeals Reviewer for DES submitted into evidence the appellant's medical review and stated the appellant submitted a MassHealth Adult Disability Supplement to DES on July 22, 2024. A previous disability evaluation conclude with a finding of not disabled. The appellant provided sufficient information and was reviewed for Type I Diabetes (Exhibit 4).

The DES representative testified that MassHealth uses the Social Security Administration (SSA) 5-step process, as described by SSA regulations in 20 Code of Federal Regulations (CFR) Ch. III section 416.920 to determine an applicant's disability status. SSA CFR §416.905 states the definition of disability is the inability to do any substantial gainful activity (SGA) 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. To meet this definition, an individual must have a severe impairment(s) that makes them unable to perform their past relevant work or any other substantial gainful work that exists in the regional economy. What a person can still do despite their impairment is called their residual functional capacity (RFC). This is used to determine whether the individual can still perform their past work or, in conjunction with their age, education and work experience, any other work, unless an impairment is so severe that it is deemed to prevent them from doing SGA.

DES explained that a review of the appellant's medical records was undertaken using a five-step sequential evaluation process established by Title XVI of the Social Security Act to determine eligibility for MassHealth.

- Step 1: Is the applicant engaged in substantial gainful activity? (waived for MassHealth purposes).
- Step 2: Is the applicant's impairment severe?
- Step 3: Does the impairment meet or equal criteria listing?
- Step 4: What is the applicant's residual functional capacity?
- Step 5: Is the applicant able to perform other work?

DES testified that Step 1 is waived for MassHealth purposes.

Under Step 2, DES reviewed the medical information obtained to determine whether the appellant's impairments are severe. To be determined severe, a medically determinable physical or mental impairment must:

1. be expected to result in death or have lasted or be expected to last for a continuous period of not less than 12 months; and
2. render an individual aged 18 or over unable to engage in any substantial gainful activity or render a child under the age of 18 unable to engage in age-appropriate activities.

DES requested and received records from the appellant's physicians and determined the available provider documentation was sufficient to meet the severity/duration requirements.

At Step 3, DES evaluated the appellant's impairments and compared them to the Social Security listings found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App.1.to see if the appellant met such criteria. The appellant's complaint was reviewed under Social Security Administration Listing of Impairments: 11.14 –Peripheral Neuropathy because there is no listing of impairment for Type 1 Diabetes. The appellant did not meet Listing 11.14 because she does not have evidence of disorganization of motor function in two extremities or a marked limitation in physical functioning.

At Step 4, DES completed an RFC assessment along with a vocational assessment. The appellant was determined to have no exertional limitations, but that she did have postural limitations. She had no mental health impairments. It was determined that she could do the full range of light work. The appellant had a relevant work history of a client service analyst which is light semi-skilled work. The DES concluded that the appellant's prior work was within her RFC capabilities. The review stopped at Step 4 and she was therefore determined to be not disabled (Exhibit 4).

The appellant did not dispute the income that was attributed to her household. She testified that she needs MassHealth and cannot afford to pay for insurance on her own. She stated that her Type I Diabetes is a disabling condition because she has daily side effects from this condition. However, the appellant did not dispute the testimony of the DES representative that she does not meet a listing of impairment at Step 3. She also did not dispute that she could do past relevant work due to her RFC assessment.

Findings of Fact

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

1. On August 28, 2024 the appellant was determined to not qualify for MassHealth because her income is too high, and because she is not disabled (Exhibit 1).
2. The appellant has a household of three people with monthly income of \$3,666.00 monthly which is 165% of the FPL (testimony).
3. The appellant is currently on MassHealth Standard due to her appeal. She had been protected due to the Covid Public Health Emergency and for one year under Transitional Medical Assistance (Exhibit 1 and testimony).
4. The appellant submitted a MassHealth Adult Disability Supplement to DES on July 22, 2024 which indicated a medical history of Type 1 Diabetes (Exhibit 4 and testimony).
5. DES requested and received the appellant's medical records from the previous 12 months (Exhibit 4).
6. DES evaluated the appellant's disability using a 5-step sequential evaluation process as described within the SSA regulations at Title XX of the Code of Federal Regulations, or CFR, Chapter III, § 416. (Exhibit 4).
7. Step 1 is waived for MassHealth purposes (Exhibit 4).
8. At Step 2, the DES determined the appellant has a severe impairment (Exhibit 4).
9. At Step 3, DES determined that the appellant does not meet the listing 11.14 –Peripheral Neuropathy because she does not have evidence of disorganization of motor function in two extremities or a marked limitation in physical functioning (Exhibit 4).
10. At Step 4, DES completed an RFC assessment along with a vocational assessment. The appellant was determined to have no exertional limitations, but that she did have postural limitations. She had no mental health impairments. It was determined that she could do the full range of light work (Exhibit 4).
11. The appellant had a relevant work history of a client service analyst which is light semi-skilled work. The DES concluded that the appellant's prior work was within her RFC capabilities and she was therefore determined to be not disabled (Exhibit 4).

Analysis and Conclusions of Law

At the beginning of the COVID-19 public health emergency (PHE), the federal government issued continuous coverage requirements. Since March 2020, MassHealth put protections in place so that individuals receiving Medicaid would generally not lose their coverage unless they voluntarily withdrew, moved out of state, or passed away.¹ These continuous coverage requirements ended April 01, 2023.²

To be found disabled for MassHealth Standard, an individual must be permanently and totally disabled (130 CMR 501.001). The guidelines used in establishing disability under this program are the same as those that are used by the Social Security Administration. Individuals who meet the Social Security Administration's definition of disability may establish eligibility for MassHealth Standard, in accordance with 130 CMR 505.002(E). Pursuant to Title XX, § 416.905, 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 process of not less than 12 months.

Title XX of the Social Security Act establishes standards and the five-step sequential evaluation process. If a determination of disability can be made at any step, the evaluation process stops at that point. Step 1 considers whether an applicant is engaged in SGA. This step is waived for MassHealth eligibility.

Step 2 determines whether a claimant has a medically determinable impairment (MDI) or a combination of MDIs that is both severe and meets the duration requirement. To be determined severe, a medically determinable impairment means that the impairment has lasted or is expected to last for a continuous process of not less than 12 months at that severity.

The appellant was reviewed for disability due to a history of Type 1 Diabetes. DES determined that the appellant's impairments have lasted or are expected to last 12 months.

Step 3 determines whether the appellant has an impairment(s) that meets an adult SSA listing or is medically equal to a listing and meets the listing level duration requirement found at 20 CFR Ch. III, Pt. 404, Subpart P, App. 1.

The appellant condition was reviewed under the listing 11.14 –Peripheral Neuropathy because there was no specific listing for diabetes.

¹ See Eligibility Operations Memo 20-09, April 2020.

² See Eligibility Operations Memo 23-18, July 2023.

At Step 3, DES determined that the appellant does not meet the listing 11.14 –Peripheral Neuropathy because she does not have evidence of disorganization of motor function in two extremities or a marked limitation in physical functioning. The appellant did not dispute this finding.

At Step 4 MassHealth DES determined that the appellant retains the capacity to perform her past relevant work as a client service analyst. The appellant did not dispute that she is capable of her past relevant work. The review therefore stopped at Step 4.

Given that there was no dispute over the DES’s analysis of the appellant’s impairment, the DES determination that she is not “permanently and totally” disabled is upheld.

The following are MassHealth coverage types as outlined at 130 CMR 505.001:

- (1) MassHealth Standard – for people who are pregnant, 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 (DMH) members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) MassHealth CommonHealth – for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) MassHealth CarePlus – for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) MassHealth Family Assistance – for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, MassHealth CommonHealth, or MassHealth CarePlus;
- (5) MassHealth Limited – for certain lawfully present immigrants as described in 130 CMR 504.003(A): Lawfully Present Immigrants, nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: Immigrants; and
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-in and Buy-in) – for certain Medicare beneficiaries.

The income limits for non-disabled adults 21 years of age or older is 133% of the federal poverty level under MassHealth Standard and under MassHealth CarePlus (130 CMR 505.002 & 505.008). The appellant is a household of three, between the ages of 19 and 65, and has income of \$3,666.00 monthly which is 165% of the FPL which is above the income limits for MassHealth eligibility. The appellant is therefore not eligible for MassHealth at this time due to income over program limits and because her one-year Transitional Medical Assistance benefits have expired.

The appeal is therefore denied.

Order for MassHealth

None, except to 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.

Stanley Kallianidis
Hearing Officer
Board of Hearings

cc:

Taunton MassHealth Enrollment Center
UMASS/DES, UMMS/ Disability Evaluation Services, 333 South Street, Shrewsbury, MA 01545