Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2417264
Decision Date:	1/27/2025	**Hearing Date:**	01/07/2025
Hearing Officer:	Alexandra Shube	**Record Open to:**	01/17/2025

Appearance for Appellant:
Via telephone:
[redacted]

Appearances for MassHealth:
Via telephone:
Marie Ngonga, Charlestown MEC
Eileen Cynamon, BSN, RN, for DES
Yvette Prayor, RN, for DES

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 Determination
Decision Date:	1/27/2025	**Hearing Date:**	01/07/2025
MassHealth's Reps.:	Marie Ngonga; Eileen Cynamon; Yvette Prayor	**Appellant's Rep.:**	Pro se
Hearing Location:	Charlestown MassHealth Enrollment Center, Remote	**Aid Pending:**	No

Authority

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

Jurisdiction

Through a notice dated August 29, 2024, MassHealth approved the appellant for MassHealth Standard benefits. (Exhibit 1). Knowing her income would be increasing in the near future, the appellant timely appealed the notice on September 30, 2024, seeking MassHealth CommonHealth and a review of the University of Massachusetts Medical School Disability Evaluation Services (DES) May 30, 2024 determination that found her not disabled.[1] (see 130 CMR 610.015(B) and Exhibit 2).

[1] As background, on June 24, 2024 the appellant first appealed a June 24, 2024 approval notice for MassHealth CarePlus benefits, also wanting to dispute the DES determination and seeking eligibility for MassHealth CommonHealth. At that time, she had not received a copy of the May 30, 2024 DES determination and MassHealth did not issue an eligibility notice related to the disability determination. The hearing (appeal #2409931), held on August 29, 2024, was scheduled as an eligibility hearing and she was not able to address the DES determination at that hearing; however, she finally received a copy of the May 30, 2024 disability determination at the beginning of September and appealed the August 29, 2024 notice, also providing a copy of the DES disability determination with her Fair Hearing Request. Another hearing (appeal #2415012) was scheduled with the Board of Hearings (BOH) for November 1, 2024, but again, it was scheduled as an eligibility hearing. Based on the fair hearing request received on September 30, 2024, BOH was able to schedule the current appeal based on the disability determination. The

Termination, modification, or denial of assistance is a valid basis for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant is not disabled.

Issue

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

Summary of Evidence

MassHealth was represented at hearing via telephone by an eligibility representative from the Charlestown MassHealth Enrollment Center and two DES appeals reviewers (hereinafter, DES appeals reviewers or DES representatives). The appellant also appeared at hearing via telephone. Documents submitted by both sides before and after hearing are contained in the record. Exhibits 4, 5, 7, 8, and 9. A summary of testimony and documentation follows.

The MassHealth eligibility representative testified as follows: On August 29, 2024, the appellant, who is [redacted] with a household size of one, was upgraded from MassHealth CarePlus to MassHealth Standard with a start date of August 19, 2024 due to declaring herself medically frail. Previously, on June 24, 2024, she had been determined eligible for MassHealth CarePlus. At the time of the determination on August 29, 2024, she was within the income limit of 133% of the Federal Poverty Level (FPL), or $1,670 gross per month for a household of one. She recently updated her income to $2,200 per month which is above the income limit; however, the MassHealth representative explained that because she has been determined medically frail, her MassHealth Standard benefits are currently active and protected, although she could not specify when this protection would end. The appellant has only been working September through the date of hearing though, so her yearly income is still under 133% of the FPL. The appellant expects her income to remain above the allowable limit which is why she is seeking a disability determination and eligibility for MassHealth CommonHealth.

The DES appeals reviewers explained that DES's role is to determine 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 9-11. The DES representative

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appellant did not receive notice of the DES disability determination until September, 2024, and thus the September 30, 2024 appeal is timely for that issue.

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 appeals reviewers 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 15-16.

On May 17, 2024, the appellant submitted a MassHealth Adult Disability Supplement to DES, listing the following health problems: [redacted] Included with the appellant's supplement were records from her various providers. *Id*. at 46, 51, 64-66, 66-77, 102-312. The disability reviewer determined that available information was not sufficient and acquired additional medical documentation using the medical releases provided by the appellant. *Id*. at 34-37. The DES representatives 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 the appellant marked Step 1 as "No," 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 53.

For Step 2, the DES reviewer considered medical records submitted by several of appellant's providers. The disability reviewer marked "Yes," indicating that the appellant's complaints met SSA severity and duration requirements (it is severe and expected to last at least twelve months). *Id*. at 53. This directs the reviewer to continue to Step 3.

For Step 3, the disability reviewer marked "No." The reviewer compared the appellant's medical records to the appropriate adult SSA listing, 5.06 – [redacted] to see if the appellant met such criteria. *Id*. at 53, 55-56.

The DES representative testified that for Steps 4 and 5, DES must evaluate the claimant's Residual Functional Capacity (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 May 28, 2024, [redacted] a DES physician, performed a physical RFC. *Id*. at 57-59. [redacted] determined that the appellant is capable of performing the full range of light work activity with consideration of environmental limitations to hazards (machinery, heights). *Id*. The disability reviewer completed a vocational assessment using the educational and work history reported on the appellant's supplement. *Id*. at 52, 48-49. The five-step review process continued to Step 4.

For Step 4, the disability reviewer found that there was "insufficient information available to determine capacity to perform past relevant work (PRW); however, this information is not material because there would be a finding of 'Not Disabled' at Step 5." The DES representative noted that the appellant's current employment is part-time only and does not meet substantial gainful activity (SGA). Regardless, the review continued to Step 5.

For Step 5, the disability reviewer asks "Does the claimant have the ability to make an adjustment to any other work, considering the claimant's age, education, and work experience?" *Id*. at 54. The disability reviewer selected "Yes," citing the Medical–Vocational Guidelines (commonly referred to as the GRID) ruling 202.00 located within the Program Operations Manual System (POMS) at DI 25025.035 (*Id*. at 26-32):

> **202.00 Maximum Sustained Work Capability Limited to Light Work as A Result of Severe Medically Determinable Impairment(s)**
> **Table No. 2** – Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairments(s).

Rule	Age	Education	Previous work experience	Decision
202.20	Younger individual	High school graduate or more	Unskilled or none	Not disabled

The disability reviewer determined the appellant is 'Not Disabled' per GRID Ruling 202.20 given her age, education and regardless of her previous work experience. *Id*. at 32.

On May 31, 2024, the five-step review process concluded with a final review and endorsement of the disability determination by physician advisor [redacted] *Id*. at 51 and 60. DES transmitted the disability determination to MassHealth and mailed a DES/MassHealth Disability Determination denial letter to the appellant on May 30, 2024 informing her that she was not disabled according to Federal and State laws and regulations. *Id*. at 323.

The DES representative testified that they received additional documentation to consider prior to the appeal. These documents were not available for the initial review, but upon review for the appeal, the information does not impact the current decision. The DES representatives concluded that the appellant does not meet or equal the high threshold of adult SSA disability listing requirements. Additionally, the appellant's RFC indicates she can perform the full range of light work activity and her environmental limitations to hazards does not erode her ability to perform work activity in the competitive labor market per the GRID. Although additional information was submitted for appeal consideration, upon review, the information does not support a determination of disabled. Therefore, the DES representatives concurred with the initial DES determination deeming the client 'Not Disabled' for Title XVI benefits.

The appellant explained she has only been working since September but is concerned that her income will soon put her over the limit for MassHealth Standard. She is looking for a disability determination to allow her to be eligible for MassHealth CommonHealth benefits. Based on the testimony provided by DES regarding the GRID, she stated that it seems like it is nearly impossible for any young, educated adult to be determined disabled; however, she knows someone with the same diagnosis with a graduate degree who was able to get on MassHealth CommonHealth after DES determined her disabled. She argued that she meets the criteria outlined in SSA listing 5.06(C) which requires the following:

> Repeated complications of IBD (see 5.00D5a), occurring an average of **3** times a year, **or** once every **4** months, each lasting **2** weeks or more, within a consecutive **12-month** period, and marked limitation (see 5.00D5c) in **one** of the following:
>
> 1. Activities of daily living (see 5.00D5d); or
> 2. Maintaining social functioning (see 5.00D5e); or
> 3. Completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace (see 5.00D5f).

Id. at 55.

She testified that she meets the "3 times a year…lasting two weeks or more" criteria. The appellant argued that all the submitted doctors' notes support this.[2] She testified with emotion about the impact her diagnosis has on every aspect of her life. Every part of her life is so impacted by her diagnosis and symptoms, but she doesn't always make a doctor's appointment every time she has a flare. She has had difficulty finding a doctor that she likes and who she feels listens to her. Some of the doctors have not accurately documented her reports. She also lives in an isolated area and does not have easy access to public transportation to get lab work done every time she has a flare. The appellant stated that she also has a weakened immune system, so taking public transportation is risky for her. Additionally, getting to appointments is physically draining for her. She does not have the energy or capacity to go to appointments or get lab work for every flare up. In the past, her insurance has not always covered all the lab work. The appellant noted that for all these reasons, the documentation reviewed by DES does not necessarily accurately reflect the dates, severity, and length of time of the flares.

The DES representatives acknowledged that the listings are a very high standard that are difficult to meet. They stated that the narratives provided by the appellant's providers are letters of treatment with a synopsis of her condition. *Id*. They do not contain clinically objective information. They also do not include a timeline of how frequent and far apart the episodes are or any changes to treatment or medication as a result of the flare ups. The listing at 5.06(C) requires "repeated complications," which would be indicated by the severity of the flares and characterized by hospitalizations, emergency room visits, lab work, weight loss, anemia, or medical interventions such as a change in medications, IV nutrition, or blood transfusions. DES would need to see her symptoms clinically documented, not general statements as are the letters provided by her doctors.

The appellant explained that she has not had in-person appointments since the pandemic because she gets sick very easily when she is around other people. As she stated, she does not reach out to the doctor with every flare, especially since she had a doctor who did not listen or respond to her. As a result, the appellant does not think she has the flares documented three times per year. Her most recent flare was July, August, and September, which may be documented in messages with her doctor in the portal. Her medication was changed after her most recent flare and her labs show that she is anemic. She is educated, but it was accomplished with a lot of support and accommodations. She works as a therapist and is fully remote. She is required to see a minimum

[2] The appellant submitted three letters from various providers. One states: "At least 3 times per year, she experiences [redacted] injections and the addition of [redacted] for additional symptom control." Similarly, another states: "[the appellant] has been my patient over the last several years for the treatment of her [redacted] During this time, she has experienced repeated complications of her [redacted] with [redacted] These exacerbations can last at least 2 weeks during which time she requires additional medication for control." And the third states that she was diagnosed with [redacted] "and has since had multiple disease flares each year. On average, [the appellant] has had three or more flares in a year each lasting two weeks."

of 20 patients per week and works about 25 hours per week, but does not get health insurance through her job. She is limited in health plans she can choose because it needs to cover her medications. Every aspect of her life (work, social, and school) are severely impacted by her diagnoses. She gets migraines from her medication. The migraines are debilitating and can last over a week, inhibiting her from attending social gathering or going to school or work. She experiences [redacted] She always needs to know where the [redacted] which is another problem with public transportation and socializing. Her energy level is so low, she can barely keep up with her [redacted]-year-old parents. All her symptoms affect her ability to concentrate. In October, she fell in the shower after exercising because she was dizzy, which speaks to the anemia and blood loss. She also has nearly fallen down the stairs to the train many times due to dizziness. Her weight fluctuates a lot, but that might not be well documented because she has a right to refuse to be weighed. She is constantly thinking about what food will be okay for her body.

The DES representatives stated they would consider additional documentation showing the severity and frequency of recent flares. It would have to be no more than one year prior from the date of the application, or from May 17, 2023 to present.

The record was held open until January 14, 2025 for the appellant to submit additional documentation to support dates, frequency, timelines, and treatment of flares. Exhibit 6. The record was held open until January 17, 2025 for DES to review and respond to the appellant's submission. *Id*.

The appellant's record open submission contained documentation which was compiled into a binder by DES found at Exhibit 9. It included several patient care summaries from various providers on October 25, 2023, August 23, 2023, and July 17, 2024; [redacted] clinic notes from a July 29, 2024 and September 30, 2024; after visit summaries from a provider on February 11, 2024 and July 31, 2023; medication lists; records of telephonic encounters with two providers on July 30, 2024 and July 31, 2024; a synopsis, created by the appellant, of several interactions with providers; records of communications with providers over the portal; and a personal statement. Exhibits 7, 8, and 9.

The appellant's personal statement explained in more detail the impact her diagnoses have on her life. Exhibit 9 at 58-63. She has multiple flares at least three times a year for more than two weeks each time. *Id.* But she does not send messages or make appointments anymore because it happens so often, she just wants to ignore it, or her providers don't even respond. *Id.* Additionally, insurance copays were expensive and bloodwork was not always covered by her insurance. *Id.* A change in doctors earlier in 2024 also further inhibited her communication about her symptoms because she did not have a doctor she felt comfortable with. Her most recent flare up was in August 2024 when she experienced bleeding and abnormal stools through the end of September. *Id.*

As to medication, she explained that she has therapeutic levels of [redacted] which means it is not the drug not working, but it is her body flaring. *Id.* In 2021, she had to increase her dose of [redacted] from every two weeks, which is the prescribed dose, to every week. She takes this along with an oral mesalamine and, if she flares, a rectal suppository. *Id.* She has had numerous conversations around switching her medication, but due to transportation issues, the ability to self-inject at home is less of a barrier than going to an infusion center. *Id.* She has done everything she can to be able to stay on this medication for her quality of life. *Id.*

The disease makes her tired and nervous to leave her house or go out with friends because she always needs to be [redacted] the time. *Id.* She developed asthma after her [redacted] diagnosis. She tries to do things that will make her life healthier like eating well and exercising, but exercising exhausts her and gives her migraines and asthma. *Id.*

As to work, the part-time fully remote job is all she can physically handle. *Id.* She is always tired, struggles with an 8-hour workday, and needs to be at home to rest during the day. With her weakened immune system, she gets sick easily and when she does get sick, it can last for weeks or months at a time. *Id.* A regular job would not have enough sick days for her medical needs. By taking this part-time job, it lessens the chronic stress she was under during her graduate program; however, it means she does not have any health benefits. *Id.* In 2020, she developed repetitive strain injuries and cubital tunnel syndrome which causes intermittent nerve pain. She has poor circulation and [redacted] disease which affects her blood flow and is extremely uncomfortable and limits mobility. The repetitive strain injuries have impaired her quality of life so much so that she can only work in a certain ergonomic set up or she will be in excruciating discomfort and her hands and wrists will swell and tighten. *Id.* She also is limited in what kinds of exercise she can do due to the wrist pain. All these symptoms are reasons why she is limited in what kind of work she does, for how many hours she can work in a day, and how she can work in a workplace. The goal is for her to work 20-25 hours per week, but for reference, she has only worked 10-15 most weeks so far. *Id.* She emphasized that this is her lived experience and it is invalidating to be told that she is not disabled enough. She stated it is clear that she meets the criteria for marked impairment in quality of life for maintaining social functioning and completing tasks in a timely manner. *Id.*

As part of the record open, the DES appeals reviewers responded that they completed a full five-step review, including obtaining an independent Record Open Physical Residual Functional Capacity (RFC) assessment completed by physician advisor [redacted] Exhibit 8. The RFC was based on all relevant evidence based on the totality of the case record. *Id.* at 3. They noted that most of the documentation submitted did not include objective clinical exam findings or reported symptoms. *Id.* at 1-2. Steps 1 through 5 resulted in the same outcome as the initial DES review.[3] *Id.*

[3] As in the first five-step review, Step 4 was answered "No." DES stated the appellant did not have any past substantial gainful work history on her supplement which would be considered for past relevant work history.

at 3. In Step 5, DES determined that the appellant is not considered disabled per GRID ruling 202.20. *Id*. DES concluded that "while the appellant continues to have some ongoing limitations, as a result of her diagnosis and complaints, these complaints do not meet or equal the high threshold of adult SSA disability listing level intent. It is MH/ DES position that [the appellant] was correctly determined 'Not Disabled' based on all available objective documentation."

Findings of Fact

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

1. On August 29, 2024, MassHealth issued a notice informing the appellant that she was approved for MassHealth Standard with a start date of August 19, 2024.

2. Previously, on June 24, 2024, the appellant had been found eligible for MassHealth CarePlus based on her income being with the allowable limit.

3. The appellant was determined medically frail which prompted the upgrade to MassHealth Standard on August 29, 2024.

4. On May 30, 2024, DES issued a notice informing the appellant that she was not disabled according to Federal and State laws and regulations.

5. On September 30, 2024, the appellant timely appealed the August 29, 2024 notice.

6. Knowing that her income was going to increase due to a new job, the appellant was seeking a disability determination to allow her MassHealth CommonHealth eligibility.

7. The appellant is [redacted] years old. She submitted an Adult Disability Supplement on May 17, 2024 listing the following health problems: [redacted]

8. DES requested and obtained medical documentation using the medical releases the appellant provided and reviewed additional clinical records submitted prior to hearing.

9. Step 1 of the 5-step review is waived by MassHealth regardless of the claimant's work status.

10. 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).

11. MassHealth/DES marked Step 3 as "no," having determined that the appellant does not meet

or equal applicable adult SSA listings 5.06 – [redacted]

12. The DES physician [redacted] determined that the appellant is capable of performing the full range of light work activity with consideration of environmental limitations to hazards (machinery, heights).

13. For Step 4, DES found that there was insufficient information to determine capacity to perform past relevant work because the appellant did not have any past substantial gainful work history listed on her supplement which would be considered for past relevant work history.

14. For Step 5, DES marked "Yes," finding that the appellant has the ability to make an adjustment to any other work, considering her age and education, regardless of her previous work experience, based on GRID ruling 202.20. At this step, DES determined that the appellant is not disabled.

15. The record was held open until January 14, 2025 for the appellant to submit additional documentation to support dates, frequency, timelines, and treatment of flares. MassHealth/DES was given until January 17, 2025 to review and respond to the appellant's submission.

16. Based on all documentation received throughout the appeal process, including the record open period, DES completed a new five-step review, including a Physical Residual Functional Capacity assessment by the physician advisor, [redacted] DES came to the same conclusion: the appellant is not disabled.

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 the appellant's history of [redacted] 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 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 the appellant's case, in light of the various impairments, and determined that the appellant did not meet the 5.06 – [redacted] There does not appear to be any error in DES's determination of Step 3. Records submitted as part of the hearing record and during the record open period did not include sufficient objective clinical exam findings or reported symptoms to

support the appellant's testimony and meet the criteria in 5.06 – [redacted] section C of which states the following[4]:

> Repeated complications [redacted] (see 5.00D5a), occurring an average of **3** times a year, **or** once every **4** months, each lasting **2** weeks or more, within a consecutive **12-month** period, and marked limitation (see 5.00D5c) in **one** of the following:
>
> 1. Activities of daily living (see 5.00D5d); or
> 2. Maintaining social functioning (see 5.00D5e); or
> 3. Completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace (see 5.00D5f).

The five-step process requires the review to proceed to Step 4 to examine the 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 the appellant is able to perform previous work. Here, the disability reviewer found that the appellant did not have any past substantial gainful work history to be considered for past relevant work history; however, it was not material because there would be a finding of "Not Disabled" at Step 5. The physician reviewer determined the appellant capable of performing the full range of light work activity with consideration of environmental limitations to hazards (machinery, heights). Given the GRID ruling 202.20 and the appellant's capability of performing work in the regional and national economy, DES determined that the appellant is not disabled for the purposes of MassHealth eligibility.

While the appellant argued that she met the criteria of 5.06(C), testimony and clinical documentation do not fully support it. She may have an average of three flares per year that last two weeks or more within a twelve-month period, but 5.06(C) requires "repeated complications." DES explained that repeated complications are indicated by the severity of the flares and characterized by hospitalizations, emergency room visits, lab work, weight loss, anemia, or medical interventions such as a change in medications, IV nutrition, or blood transfusions. The clinical documentation is not present to support that. Unfortunately, the appellant has struggled to find doctors who support her and who she can trust, resulting in gaps in her treatment records.

The appellant credibly argued that she has difficulty performing her current work and maintaining 20-25 hours per week. Neither DES nor this hearing officer doubts the severity of her symptoms or the significant impact they have on all aspects of her life. It is understandably overwhelming and challenging to live with and manage her medical condition while also trying to work (and previously, get through school), especially at a young age. While sympathetic and laudable, the appellant and her evidence have not reached the high burden of a determination

[4] Parts A and B were not relevant based on the appellant's conditions and records and she did not argue that she met the criteria listed in 5.06(A) or (B).

of permanent and total disability.[5] The record supports DES's conclusion that the appellant is not disabled under MassHealth's regulations.

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). Additionally, if an individual is determined medically frail or is an individual with special medical needs and has been determined to meet the eligibility criteria for MassHealth CarePlus as described in 130 CMR 505.008, the individual may elect at any time to receive MassHealth Standard benefits, as described in 130 CMR 505.002(J). 130 CMR 505.008(F). 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). MassHealth CommonHealth is available to both disabled adults, disabled working adults, and disabled children. 130 CMR 505.004(A).

Here, at the time of the determination on August 29, 2024, the appellant was within the income limit for MassHealth CarePlus. MassHealth correctly upgraded her to MassHealth Standard after she was determined medically frail. As she was not determined disabled at that time, she was not eligible for MassHealth CommonHealth.

As the DES determination and eligibility determination were not made in error, this appeal is denied.

Order for MassHealth

None.

[5] This decision does not prevent the appellant from re-submitting the Adult Disability Supplement in the future, especially if/when she can obtain sufficient supporting documentation from her providers.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

Disability Contractor – UMASS