

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2417305
Decision Date:	1/29/2025	Hearing Date:	01/16/2025
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:



Appearance for MassHealth:

Chanthy Kong, Tewksbury MEC

DES: Yvette Prayor, RN, Appeal Reviewer
Eileen Cynamon, RN, BSN, Appeal Reviewer



*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:	Community Eligibility – under 65; Income; Disability
Decision Date:	1/29/2025	Hearing Date:	01/16/2025
MassHealth’s Rep.:	Chanthy Kong Yvette Prayor Eileen Cynamon	Appellant’s Rep.:	
Hearing Location:	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 October 17, 2024, MassHealth renewed the appellant’s MassHealth coverage for Health Safety Net Partial effective on October 17, 2024. See 130 CMR 505.008 and Exhibit 1. On October 24, 2024, the MassHealth Disability Evaluation Services (DES) issued a determination that the appellant is not clinically disabled. See 130 CMR 501.001. The appellant filed this appeal in a timely manner on November 8, 2024. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal to the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth renewed the appellant’s coverage for Health Safety Net and deemed him not disabled for purposes of MassHealth eligibility.

Issue

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 he does not qualify for any MassHealth coverage types. See 130 CMR 505.008; 130 CMR 505.004; 130 CMR 505.001.

Summary of Evidence

All parties appeared virtually. MassHealth was represented by two registered nurses and appeal reviewers from the DES, as well as a representative from the Tewksbury MassHealth Enrollment Center. The appellant was represented by his mother who verified his identity. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is an adult under the age of 65 who lives in a household of one. The appellant is not a parent and has not been deemed disabled. He had MassHealth CarePlus from April 5, 2020 to September 30, 2024. The appellant submitted a renewal application online on August 19, 2024, and verified his income as \$2,393.26 per month from employment. This figure equates to 190.98% of the federal poverty level (FPL) for a household of one which exceeds the limit for MassHealth CarePlus. The MassHealth representative stated that the income limit to receive MassHealth CarePlus is 133% of the FPL, or \$1,670.00 per month for a household of one. The appellant's representative verified the appellant's income and household size.

The DES appeals reviewer explained that DES's role is to determine for MassHealth if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES uses a five-step process, which comes from the SSA code of federal regulations to determine an applicant's disability status. See 20 CFR §416.920; 20 CFR §416.905; Exhibit 5, pp. 5-8. The DES representative testified that under these regulations, disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months. The definition of disability also requires that the applicant have a severe impairment(s) that makes the applicant unable to do past relevant work or any other substantial gainful work that exists in the regional economy. See id. at 5.

The DES representative testified that, under 20 CFR §416.945, what a person can still do despite an impairment is called his or her residual functional capacity (RFC). Unless an impairment is so severe that it is deemed to prevent an individual from doing substantial gainful activity, it is this RFC that is used to determine whether the individual can still do past work or, in conjunction with age, education and work experience, any other work. See Exhibit 5, p. 13.

On September 5, 2024, the appellant submitted a MassHealth Adult Disability Supplement to DES, listing the following health problems: hemophilia, joint pain, and left arm arthritis from bleeds. See id. at 35-42.

DES obtained medical documentation using the medical releases the appellant provided. See id. at 23-25. The medical records were obtained from [REDACTED] of [REDACTED] (id. at 64-68), and [REDACTED] of [REDACTED] (id. at 70-83).

The medical records obtained from [REDACTED] dated [REDACTED] 2024, provide the following information:

- Examination: No acute distress was found. Eyes, ears, nose, oral cavity were all clear. Heart rate was controlled, no murmurs, regular rate, and rhythm. Lungs were clear. No edema was found in the extremities.
- Assessment and treatment: Routine physical examination was recommended with follow up with hematologist as needed since no acute issues were reported during the visit. Over-the-counter medication for management of seasonal allergies was recommended. High cholesterol was noted, and a follow-up visit in 6 months was prescribed.

See Exhibit 5, pp. 66-68.

The medical records obtained from [REDACTED] dated [REDACTED] 2023, provide the following information:

- Musculoskeletal examination: No acute distress, no lower extremity edema, limited range of motion in left elbow unchanged from prior visit. Good range of motion in other upper and lower extremity joints, but he does have pain in right anterior thigh with flexion of the right hip and extension of the right knee.
- Assessment and plan: Patient has severe hemophilia A (factor VIII deficiency) complicated by hemophilic arthropathy. He is doing well, although he did have a muscle bleed in the right thigh after physical activity. Patient was referred for PT evaluation of the right leg and also evaluate his left elbow, which is a target joint for him. Patient is to take 1-2 more doses of Xyntha if he notices that the pain is not getting better over time. Comprehensive hemophilia labs were sent. For major bleeding he should receive factor VIII (Xyntha) 50 units/kg, and for minor bleeding 25 units/kg. He will continue emicizumab every 14 days. Return to clinic annually or sooner if needed was recommended.

See Exhibit 5, pp. 82-83.

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

Step 1 asks, “Is the claimant engaging in substantial gainful activity (SGA)?” Here, although Step 1

was marked as “Yes,” the DES representative stated that this step is waived by MassHealth regardless of whether the claimant is engaging in SGA. On the federal level engaging in SGA would stop the disability review in its entirety. See id. at 45.

Step 2 asks, “Does the claimant have a medically determinable impairment (MDI) or combination of MDIs 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)?” For this step, the DES reviewer considered medical records submitted by the appellant’s providers and marked “Yes,” indicating that the appellant’s impairment meets SSA severity and duration requirements. See id. at 45. The review continued to Step 3.

Step 3 asks, “Does the claimant have an impairment(s) that meets a listing, or is medically equal to a listing, and meets the listing level duration requirement?” For Step 3, the appellant’s review was marked “No.” The reviewer compared the appellant’s medical records to the following SSA listings:

- 7.08 Disorders of Thrombosis and Hemostasis: Medical records did not meet this listing requirements because the appellant did not require at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours. See id. at 47, 64-83.
- 14.09 Inflammatory Arthritis: Medical records did not meet this listing requirement because the appellant did not have inflammation or deformity of one or more major joints. See id. at. 48-49, 64-83.

For Steps 4 and 5, the DES representative testified that DES evaluates the applicant’s RFC and completes a vocational assessment. The DES representative explained that the RFC is the most a claimant can still do despite his limitations. The RFC evaluation was based on the appellant’s case record. See 20 CFR §416.945. On October 21, 2024, [REDACTED] a DES physician advisor (PA), performed a physical RFC. [REDACTED] determined that the appellant has no exertional limitations, but he does have postural limitations to never climb ladders/scaffoldings related to his diagnosis of hemophilia. The appellant also has environmental limitations for fumes, odors, dust and hazards related to his asthma history and hemophilia. See Exhibit 5, pp. 51-53.

The DES reviewer completed a vocational assessment based on appellant’s educational and work history reported on the appellant’s supplement and the RFCs. See id. at 39. The review continued to Step 4.

Step 4 asks “Does the claimant retain the capacity to perform any Past Relevant Work (PRW)?” The reviewer selected “Yes.” See id. at 46. The appellant is English speaking, literate, and has twelve years of education. The appellant’s current employment as a plant cultivator falls within the ‘medium’ range and ‘semi-skilled’ level of work activities as described within the supplement and the Dictionary of Occupational Titles (DOT) code 406.684-018. See id. at 56. His current

employment exceeds the RFC guidance and was excluded from PRW consideration. However, the appellant was determined to be capable of performing his past relevant work as a group leader, which falls within the RFC capabilities of 'light' range and 'semi-skilled' levels of work for DOT code 249.367-074. Id. at 54. As such, the appellant was deemed by the DES to be not disabled. A final review was completed by PA [REDACTED] who concurred with the disability reviewer's determination on October 24, 2024. Id. at 43, 57.

The DES representative testified that, in summary, the appellant does not meet or equal the high threshold of adult SSA disability listings. Additionally, the appellant's physical RFC shows he has no exertional limitations, however, he has postural and environmental limitations. DES considered the appellant's limitations in its determination that he can perform his past work as a group leader. Therefore, the appellant is not disabled under SSA Title XVI and a denial notice was sent issued on October 24, 2024 and transmitted to MassHealth on October 25, 2024.

The appellant's representative stated that the appellant's disease is very rare. She said that his clotting factor is less than 1%, rendering him prone to spontaneous bleeds due to a complete absence of clotting factor. His medication is crucial to managing his condition and it is not covered by Health Safety Net. She added that despite enrolling in a ConnectorCare plan, the exact co-payment for his medication under this plan remains unknown, as his prescription has not yet been processed. She has been able to obtain medication through the manufacturer for a month, but the future availability of this assistance is uncertain.

The appellant's representative added that the appellant's past work as a group leader lasted only a few months and inquired whether that was the reason the review did not proceed to Step 5.¹ The DES representative responded that although this review concluded at Step 4, even if DES determined that the appellant was unable to perform his past work at this step, it would have determined that the appellant is still able to perform work in the national economy at Step 5, and the appellant would still be deemed not disabled. Id. at 54-55.

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 lives in a household of one. (Testimony and Exhibit 4)
2. The appellant is not a parent and has not been deemed disabled. (Testimony and Exhibit 5).

¹ Step 5 asks, "Does the claimant have the ability to make an adjustment to any other work, considering the claimant's RFC, age, education, and work experience?" See Exhibit 5, p. 46.

3. The appellant had MassHealth CarePlus from April 5, 2020 to September 30, 2024. (Testimony and Exhibit 4).
4. The appellant's verified income is \$2,393.26 per month from employment. (Testimony).
5. The income limit to be eligible for MassHealth benefits is \$1,670.00 per month for a household of one. (Testimony).
6. On September 5, 2024, the appellant submitted a MassHealth Adult Disability Supplement to DES, listing the following health problems: hemophilia, joint pain, and left arm arthritis from bleeds. (Testimony and Exhibit 5).
7. The DES obtained medical documentation using the medical releases the appellant provided. (Testimony and Exhibit 5).
8. Medical records were obtained from [REDACTED] of [REDACTED] and [REDACTED] of [REDACTED] (Testimony and Exhibit 5).
9. The medical records obtained from [REDACTED] dated [REDACTED] 2024, provide the following information:
 - Examination: No acute distress was found. Eyes, ears, nose, oral cavity were all clear. Heart rate was controlled, no murmurs, regular rate, and rhythm. Lungs were clear. No edema was found in the extremities.
 - Assessment and treatment: Routine physical examination was recommended with follow up with hematologist as needed since no acute issues were reported during the visit. Over-the-counter medication for management of seasonal allergies was recommended. High cholesterol was noted, and a follow-up visit in 6 months was prescribed. (Exhibit 5).
10. The medical records obtained from [REDACTED] dated [REDACTED] 2023, provide the following information:
 - Musculoskeletal examination: No acute distress, no lower extremity edema, limited range of motion in left elbow unchanged from prior visit. Good range of motion in other upper and lower extremity joints, but he does have pain in right anterior thigh with flexion of the right hip and extension of the right knee.
 - Assessment and plan: Patient has severe hemophilia A (factor VIII deficiency) complicated by hemophilic arthropathy. He is doing well, although he did have a muscle bleed in the right thigh after physical activity. Patient was referred for PT evaluation of the right leg and also evaluate his left elbow, which is a target joint

for him. Patient is to take 1-2 more doses of Xyntha if he notices that the pain is not getting better over time. Comprehensive hemophilia labs were sent. For major bleeding he should receive factor VIII (Xyntha) 50 units/kg, and for minor bleeding 25 units/kg. He will continue emicizumab every 14 days. Return to clinic annually or sooner if needed was recommended. (Exhibit 5).

11. The DES uses a five-step sequential process, which comes from the SSA code of federal regulations to determine an applicant's disability status. (Testimony and Exhibit 5).
12. Step 1 is waived by MassHealth regardless of whether the claimant is engaging in SGA. (Testimony and Exhibit 5).
13. At Step 2, DES determined that the appellant's impairment meets SSA severity and duration requirements. (Testimony and Exhibit 5).
14. At Step 3, DES determined that the appellant does not meet adult SSI listings: 7.08 – Disorders of Thrombosis and Hemostasis; and 14.09 – Inflammatory Arthritis because the clinical evidence submitted did not support this finding. (Testimony and Exhibit 5).
15. The appellant did not require at least three hospitalizations within a 12-month period and occurring at least 30 days apart, each lasting at least 48 hours. Nor did he have any deformity in one or more major joints. (Testimony and Exhibit 5).
16. For Steps 4 and 5, DES evaluated the appellant's RFC and completed a vocational assessment. (Testimony and Exhibit 5).
17. At Step 4, DES determined that the appellant is able to perform his past relevant work. (Testimony and Exhibit 5).
18. The appellant previously engaged in past relevant work as a group leader. (Testimony and Exhibit 5).
19. At this step, DES determined that the appellant is not disabled. (Testimony and Exhibit 5).
20. On October 24, 2024, DES issued a determination that the appellant is not clinically disabled. (Testimony and Exhibit 5).
21. Through a notice dated October 17, 2024, MassHealth renewed the appellant's MassHealth coverage for Health Safety Net Partial effective on October 17, 2024. (Testimony and Exhibit 1).

22. The appellant filed this appeal in a timely manner on November 8, 2024. (Exhibit 2).

Analysis and Conclusions of Law

Generally, MassHealth regulations at 130 CMR 505.000 explain the categorical requirements **and** financial standards that must be met to qualify for a particular MassHealth coverage type. To establish eligibility for MassHealth benefits, applicants must meet both the categorical requirements **and** financial standards.

These coverage types set forth at 130 CMR 505.001(A) are as follows:

- (1) MassHealth Standard - for people who are pregnant, children, parents and caretaker relatives, young adults², 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) 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, CommonHealth, or CarePlus;
- (5) MassHealth 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
- (6) MassHealth Medicare Savings Programs (MSP, also called Senior Buy-In and Buy-In) for certain Medicare beneficiaries.

In this case, the appellant is between the ages of 21 and 65. He is not a parent and has not been deemed disabled by the Social Security Administration. Additionally, after utilizing a five-step process as discussed infra, the DES determined that the appellant is not disabled. As such, he meets the categorical requirements for MassHealth CarePlus. The question then becomes whether he meets the income requirements to qualify.

An individual between the ages of 21 and 64 who is categorically eligible for MassHealth CarePlus can only be financially eligible if “the individual’s modified adjusted gross income of the MassHealth MAGI household is less than or equal to 133% of the federal poverty level,” or \$1,670.00 per month. See 130 CMR 505.008(A)(2)(c); <https://www.mass.gov/doc/2024-masshealth-income-standards-and-federal-poverty-guidelines>.

² “[Y]oung adults” are defined as those aged 19 and 20. See 130 CMR 501.001.

Here, the appellant's representative verified that the appellant's monthly income is \$2,393.26 which is over the income limits to qualify for all MassHealth coverage types except for MassHealth CommonHealth. To qualify for MassHealth CommonHealth, a disabled working adult must meet the following requirements:

- (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).

See 130 CMR 505.004.

There is no dispute that the appellant meets all of the requirements except being permanently and totally disabled. Thus, that is the only issue in this appeal.

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

1. can be expected to result in death; or
2. 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). See 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.

Here, after the completion of a five-step review, the physician reviewer determined that appellant is capable of performing his past relevant work as a group leader, which falls within the RFC capabilities of 'light' range and 'semi-skilled' levels of work. The appellant's representative argued that the appellant only had that job for a few months, and he may not be able to continue his current employment due to his condition. While the appellant's current employment exceeds the RFC guidance and was excluded from PRW consideration, his past relevant work as a group leader does fall within the RFC. An appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." See Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231 (2006). The appellant has failed to do so. 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). Accordingly, I find that the record supports DES's conclusion that appellant is not disabled under MassHealth's regulations.

For the foregoing reasons, 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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings



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

DES Representative: Univ. of Mass. Chan Medical School, P.O. Box 2795, Worcester, MA 01613