

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2419776
<b>Decision Date:</b>	4/8/2025	<b>Hearing Date:</b>	2/28/2025
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	N/A

**Appearance for Appellant:**



**Appearance for MassHealth:**

Sherri Paiva, MassHealth Taunton, Yvette Prayor, RN., Appeals Reviewer, Disability Evaluation Services (DES), ForHealth Consulting at UMass Chan Medical School

**Interpreter:**

N/A



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Disability Evaluation Services (DES) Determination
<b>Decision Date:</b>	4/8/2025	<b>Hearing Date:</b>	2/28/2025
<b>MassHealth's Rep.:</b>	Sherri Pavia, MassHealth, Yvette Prayor, RN, (DES),	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote (Tel)	<b>Aid Pending:</b>	No

### Authority

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

### Jurisdiction

Through a notice dated December 18, 2024, MassHealth notified the Appellant that she does not meet the MassHealth disability requirements. (Exhibit 6, pg. 81). Through a separate notice dated December 20, 2024, MassHealth notified the Appellant that she does not qualify for MassHealth benefits due to excess income. (Exhibit 1) The Appellant filed an appeal in a timely manner on December 27, 2024. (130 CMR 610.015(B); Exhibit 2) Denial of assistance is valid grounds for appeal (130 CMR 610.032).

A Fair Hearing was scheduled for January 28, 2025 regarding the December 18, 2024 Notice. (Exhibit 3) At the January 28, 2025 Hearing, the Appellant indicated that she was seeking appeal of the decision that the Appellant did not meet the MassHealth disability requirements<sup>1</sup>. (Exhibit 6, pg. 81). Since no representative from Disability Evaluation Services (DES) was included in the Hearing held on January 28, 2025, a second day of Hearing was scheduled for February 28, 2025 to address the issue the Appellant was seeking to appeal: the MassHealth determination that the Appellant does not meet the MassHealth disability requirements. (Testimony, Exhibit 5)

---

<sup>1</sup> The December 18, 2024 notice was not submitted prior to the Hearing held on January 28, 2025.

## Action Taken by MassHealth

MassHealth notified the Appellant that she does not meet the MassHealth disability requirements.

## Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is not totally and permanently disabled.

## Summary of Evidence

At the January 28, 2025, MassHealth was represented by a representative from the MassHealth Enrollment Center in Taunton, and the Appellant represented herself. (Testimony) Both parties participated by telephone. MassHealth testified that the Appellant resided in a household of 1, with a weekly income average of \$1,000.00, equating to a monthly income average of \$4,333.00, which exceeded the income limitation for MassHealth benefits. (Testimony).

The Appellant testified that she was seeking to appeal the determination that she did not qualify for CommonHealth due to MassHealth's determination that the Appellant did not meet the MassHealth disability requirements. (Testimony) The DES Notice, dated December 18, 2024 was not included in the Appellant's request. No representative from DES was included in the Hearing held on January 28, 2025. (Testimony) Accordingly, the Hearing was suspended, and a day 2 was scheduled for a representative from DES to appear to address the issue the Appellant was seeking to appeal: MassHealth's determination that the Appellant did not meet the MassHealth disability requirements<sup>2</sup>. (Testimony, Exhibit 5)

MassHealth was represented at the initial hearing by an eligibility representative and a registered nurse and appeals reviewer from Disability Evaluation Services (DES); all parties participated by telephone. The DES Nurse explained that DES determines, for MassHealth, if a client meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES utilizes a 5-step process, as described by SSA regulations at Title 20 Code of Federal Regulations (CFR) Ch. III subsection (§) 416.920 (page 9-11) to determine disability status. The process is driven by an applicant's medical records and disability supplement. SSA CFR §416.905 (Exhibit 6, pg. 8) states the definition of disability is the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental

---

<sup>2</sup> The Appellant confirmed at both Hearings that she was appealing the DES determination that she was not disabled, confirmed the accuracy of the figures about which MassHealth testified during day 1 of the Hearing, and was not appealing MassHealth's financial determination. (Testimony)

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, one must have a severe impairment(s) that makes one unable to do past relevant work or any other substantial gainful work that exists in the regional economy.

Per SSA CFR §416.945 (Exhibit 6, pgs. 18-19) what a person can still do despite an impairment is called residual functional capacity (RFC). Unless an impairment is so severe that it is deemed to prevent one from doing substantial gainful activity, it is this residual functional capacity that is used to determine whether one can still do past work or, in conjunction with age, education and work experience, any other work.

The Appellant is an adult under the age of 65 who submitted a MassHealth Adult Disability Supplement to DES on November 26, 2024. The Appellant listed the following health problems: Multiple Sclerosis (MS), Diabetes (DM), Hypertension/High Blood Pressure, and Asthma (Exhibit 6, pg. 45, 62). DES requested and obtained medical documentation using the medical releases the Appellant had provided (Exhibit 6, pgs. 30-36). Medical documentation was received from [REDACTED] (Exhibit 6, pgs. 84-92) and [REDACTED] (Exhibit 6, pgs. 93-130). Based upon the information, the 5-step review process was initiated.

**Step 1** asks “Is the claimant engaging in substantial gainful activity (SGA)?” For the Appellant, Step 1 was marked, “Yes” (Exhibit 6, pg. 64). Per the Appellant’s job description, the Appellant currently work as an Office Manager (Exhibit 6, pgs. 53, 63). This step is waived by MassHealth regardless of the claimant engaging in SGA, while on the federal level engaging in SGA would stop the disability review in its entirety.

**Step 2** asks “Does the claimant have a medically determinable impairment (MDI) or combination of MDIs (CFR §416.923, Exhibit 6, pg. 14) that is both severe and meets the duration requirement.” The disability reviewer determined the appellant’s complaints met SSA severity and duration requirements and marked, “Yes” (Exhibit 6, pg. 64). The review continued to Step 3.

**Step 3** asks “Does the claimant have an impairment(s) that meets an adult SSA listing, or is medically equal to a listing, and meets the listing level duration requirement?” Step 3 was marked, “No” by the disability reviewer (Exhibit 6, pg. 64) citing the appropriate adult SSA listings considered: 3.03 – Asthma, 4.04 – Ischemic Heart Disease (Hypertension/High blood pressure), 11.09 – Multiple Sclerosis, and 11.14 – Peripheral Neuropathy (Diabetes).

For the rest of the review, Steps 4 & 5, both a Residual Functional Capacity (RFC) assessment along with a vocational assessment are determined. The RFC is the most an applicant can still do despite limitations. An applicant’s RFC is based on all relevant evidence in the case record, see CFR §416.945 (Exhibit 6, pgs. 18-19), CFR §416.920b (Exhibit 6, pgs. 15-16),

CFR §416.923 (Exhibit 6, pg. 17) and CFR §416.960 (Exhibit 6, pg. 20-21). A Physical RFC (see CFR §416.967 Exhibit 6, pg. 24) completed by a doctor on December 16, 2024, indicates the Appellant is capable of performing the full range of light work activity with consideration of occasional postural limitations (climbing/ramps, stairs, etc.) and environmental limitations (hazards to machinery, heights, etc.) (Exhibit 6, pgs. 74-76). The disability reviewer completed a vocational assessment (Exhibit 6, pg. 63), using the educational and work history reported on the Appellant's supplement. I was noted that while the information provided by the Appellant was incomplete and inconsistent (i.e., education was unclear) it did not impact the final disability outcome. The 5-step review process continued to Step 4. (Testimony, Exhibit 6)

**Step 4** asks "Does the claimant retain the capacity to perform any Past Relevant Work (PRW)?" (Exhibit 6, pg. 65). The disability reviewer answered "No." The Appellant's present work exceeds their current abilities. The Appellant self-reported to have a medium skilled occupation. Review continued to Step 5.

**Step 5a** asks "Does the claimant have the ability to make an adjustment to any other work, considering the claimant's age, education, and work experience? (Exhibit 6, p. 65) The disability reviewer selected "Yes" citing three unskilled jobs available within both the regional and national economy (CFR §416.966, CFR 416.967, CFR §416.968, 416.969a, Exhibit 6, 22-28). The DR referenced the Occupational Employment Quarterly (OEQ) (Exhibit 6, pgs. 77-79) and quoted three jobs: 4030: Food Preparation Worker, 9610: Cleaners of Vehicles & Equipment and 9640: Packers & Packers, Hand (Exhibit 6, pg. 65). The disability reviewer determined that the Appellant is 'Not Disabled' using decision code 231 (Exhibit 6, pgs. 65, 80). The 5-step evaluation process concluded with a final review and endorsement of the disability decision by a Physician Advisor on December 18, 2024 (Exhibit 6, pgs. 62, 80). DES transmitted the decision to MassHealth and mailed a Disability Determination denial letter (Exhibit 6, pgs. 81) to the Appellant on December 19, 2024 (Exhibit 6, pg. 40).

The Nurse summarized that the Appellant does not meet or equal the high threshold of adult SSA disability listing requirements. Additionally, the Appellant's RFC indicate that she is capable of performing the full range of light work activity in the competitive labor market. Finally, there are, within the regional/ national economy, a significant number of jobs (in one or more occupations) having requirements which the client can meet based on her physical and mental capabilities and her vocational qualifications. The Nurse stated that the Appellant had been correctly determined Not Disabled at Title XIV for benefits. (Testimony, Exhibit 7)

The Appellant asked the Nurse a series of questions, including whether she would need to be unable to work in order to be determined to have a disability to qualify for MassHealth CommonHealth. The Nurse discussed, in detail, the Appellant's medical records (Exhibit 6, pgs. 83-130) The Nurse noted that the Appellant had been stable, compliant with her treatment regimen, and did not suffer a relapse within the past 12 months prior to the Hearing. (Testimony). The Appellant explained the severity of her last relapse in 2023, how it prevented

her from working for over a month, and the steps she has taken to keep herself healthy. (Testimony) This includes modifications to her diet. These modifications had substantially improved her lab results for the past year, included within her medical documentation. (Testimony, Exhibit 6, pgs. 83-13)

The Appellant stated that she understood how the decision was made. (Testimony). The Appellant inquired as to whether she could reapply for MassHealth CommonHealth should her condition worsen. The Nurse explained that the Appellant may reapply, noting that the Appellant's current stability did not meet the high threshold for a current determination of a disability. (Testimony)

## **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 has been diagnosed with Multiple Sclerosis (MS), Diabetes (DM), Hypertension/High blood pressure, and Asthma (Exhibit 6, pg. 45, 62)
2. DES received and reviewed the Appellant's medical records within the disability determination review. (Testimony, Exhibit 6, pgs. 83-130)
3. The Appellant currently work as an Office Manager (Exhibit 6, pgs. 53, 63)
4. DES evaluated whether the Appellant has a 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. (Testimony, Exhibit 6, Exhibit 8)
5. At Step 1, which explores whether the applicant engaged in SGA, DES explained that this step is waived for MassHealth purposes. (Testimony, Exhibit 6, Exhibit 8)
6. At Step 2, DES determined that the Appellant has a severe impairment. (Testimony, Exhibit 6, Exhibit 8)
7. Step 3 was marked, "No" by the disability reviewer (Exhibit 6, pg. 64) citing the appropriate adult SSA listings considered: 3.03 – Asthma, 4.04 – Ischemic Heart Disease (Hypertension/High blood pressure), 11.09 – Multiple Sclerosis, and 11.14 – Peripheral Neuropathy (Diabetes).
8. At Step 4, the inquiry states "Does the claimant retain the capacity to perform any

Past Relevant Work (PRW)?” (Exhibit 6, pg. 65). The disability reviewer answered “No.” DES found that the Appellant’s present work exceeds their current abilities. The Appellant self-reported to have a medium skilled occupation. Review continued to Step 5 (Testimony, Exhibit 7)

9. Step 5a asks “Does the claimant have the ability to make an adjustment to any other work, considering the claimant’s age, education, and work experience? (Exhibit 6, p. 65) The disability reviewer selected “Yes” citing three unskilled jobs available within both the regional and national economy (CFR §416.966, CFR 416.967, CFR §416.968, 416.969a, Exhibit 6, 22-28).
10. The DR referenced the Occupational Employment Quarterly (OEQ) (Exhibit 6, pgs. 77-79) and quoted three jobs: 4030: Food Preparation Worker, 9610: Cleaners of Vehicles & Equipment and 9640: Packers & Packagers, Hand (Exhibit 6, pg. 65). The disability reviewer determined that the Appellant is ‘Not Disabled’ using decision code 231(Exhibit 6, pgs. 65, 80).

## Analysis and Conclusions of Law

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

In order for an individual to be determined eligible for MassHealth services, the Appellant must undergo an eligibility determination. During the eligibility process, an applicant has certain rights and responsibilities. For individuals under the age of 65, the duty to cooperate is codifying within 130 CMR 501.010:

### **501.010: Responsibilities of Applicants and Members**

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining available health insurance. The MassHealth agency may request corroborative information necessary to maintain eligibility, including obtaining or maintaining available health insurance. The applicant or member must supply such information within 30 days of the receipt of the agency's request. If the member does not cooperate, MassHealth benefits may be terminated.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, the availability of health insurance, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

During this eligibility process, in order 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. Id. The Social Security Administration requirements include the responsibilities for an applicant, which is codified within Title XX § 416.912:

**§ 416.912. Responsibility for evidence.**

**(a) Your responsibility —**

(1) *General.* In general, you have to prove to us that you are blind or disabled. You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled ( see § [416.913](#)). This duty is ongoing and requires you to disclose any additional related evidence about which you become aware. This duty applies at each level of the administrative review process, including the Appeals Council level if the evidence relates to the period on or before the date of the administrative law judge hearing decision. We will consider only impairment(s) you say you have or about which we receive evidence. When you submit evidence received from another source, you must submit that evidence in its entirety, unless you previously submitted the same evidence to us or we instruct you otherwise. If we ask you, you must inform us about:

- (i) Your medical source(s);
- (ii) Your age;
- (iii) Your education and training;
- (iv) Your work experience;
- (v) Your daily activities both before and after the date you say that you became disabled;
- (vi) Your efforts to work; and
- (vii) Any other factors showing how your impairment(s) affects your ability to work, or, if you are a child, your functioning. In §§ [416.960](#) through [416.969](#), we discuss in more detail the



evidence we need when we consider vocational factors.

(2) *Completeness*. The evidence in your case record must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind. It must allow us to determine—

(i) The nature and severity of your impairment(s) for any period in question;

(ii) Whether the duration requirement described in § [416.909](#) is met; and

(iii) Your residual functional capacity to do work-related physical and mental activities, when the evaluation steps described in §§ [416.920\(e\)](#) or (f)(1) apply, or, if you are a child, how you typically function compared to children your age who do not have impairments.

(3) *Statutory blindness*. If you are applying for benefits on the basis of statutory blindness, we will require an examination by a physician skilled in diseases of the eye or by an optometrist, whichever you may select.

(b) *Our responsibility* —

(1) *Development*. Before we make a determination that you are not disabled, we will develop your complete medical history for at least the 12 months preceding the month in which you file your application unless there is a reason to believe that development of an earlier period is necessary or unless you say that your disability began less than 12 months before you filed your application. We will make every reasonable effort to help you get medical evidence from your own medical sources and entities that maintain your medical sources' evidence when you give us permission to request the reports.

(i) *Every reasonable effort* means that we will make an initial request for evidence from your medical source or entity that maintains your medical source's evidence, and, at any time between 10 and 20 calendar days after the initial request, if the evidence has not been received, we will make one follow-up request to obtain the medical evidence necessary to make a determination. The medical source or entity that maintains your medical source's evidence will have a minimum of 10 calendar days from the date of our follow-up request to reply, unless our experience with that source indicates that a longer period is advisable in a particular case.

(ii) *Complete medical history* means the records of your medical source(s) covering at least the 12 months preceding the month in which you file your application. If you say that your disability began less than 12 months before you filed your application, we will develop your complete medical history beginning with the

month you say your disability began unless we have reason to believe your disability began earlier.

(2) *Obtaining a consultative examination.* We may ask you to attend one or more consultative examinations at our expense. See §§ [416.917](#) through [416.919t](#) for the rules governing the consultative examination process. Generally, we will not request a consultative examination until we have made every reasonable effort to obtain evidence from your own medical sources. We may order a consultative examination while awaiting receipt of medical source evidence in some instances, such as when we know a source is not productive, is uncooperative, or is unable to provide certain tests or procedures. We will not evaluate this evidence until we have made every reasonable effort to obtain evidence from your medical sources.

(3) *Other work.* In order to determine under § [416.920\(g\)](#) that you are able to adjust to other work, we must provide evidence about the existence of work in the national economy that you can do (see §§ [416.960](#) through [416.969a](#)), given your residual functional capacity (which we have already assessed, as described in § [416.920\(e\)](#)), age, education, and work experience. [82 FR 5874, Jan. 18, 2017]

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 substantial gainful activity. This step is waived in MassHealth cases. Thus, the review proceeds to Step 2.

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 said impairment is expected to result in death, or which has lasted or is expected to last for a continuous process of not less than 12 months at that severity.

The Appellant has been diagnosed with Multiple Sclerosis (MS), Diabetes (DM), Hypertension/High blood pressure, and Asthma (Exhibit 6, pg. 45, 62) DES determined that the Appellant's impairments have lasted or are expected to last 12 months. I find this determination is accurate. Accordingly, the Appellant's impairments meet Step 2, and the review process proceeds to Step 3.

Step 3 requires the reviewer to determine whether the claimant has an impairment(s) that meets an adult SSA listing or is medically equal to a listing and meets the listing level duration requirement. The pertinent adult listings are set forth in the federal *Listing of Impairments* that can be found at 20 CFR Ch. III, Pt. 404, Subpart P, App. 1. DES reviewed the appellant's diagnoses, and determined that the impairments do not meet the high threshold of adult SSA listings and the listing level duration requirement. I find this determination is accurate.

Accordingly, the review process proceeds to Step 4. Step 4 requires the reviewer to determine whether the claimant retains the capacity to perform any past relevant work. Here, The disability reviewer answered "No." The client's present work exceeds their current abilities. The Appellant self-reported to have a medium skilled occupation. Review continues to Step 5. I find this determination is accurate.

Step 5a asks "Does the claimant have the ability to make an adjustment to any other work, considering the claimant's age, education, and work experience? (Exhibit 6, p. 65) The disability reviewer selected "Yes" citing three unskilled jobs available within both the regional and national economy (CFR §416.966, CFR 416.967, CFR §416.968, 416.969a, Exhibit 6, 22-28). The DR referenced the Occupational Employment Quarterly (OEQ) (Exhibit 6, pgs. 77-79) and quoted three jobs: 4030: Food Preparation Worker, 9610: Cleaners of Vehicles & Equipment and 9640: Packers & Packagers, Hand (Exhibit 6, pg. 65). The disability reviewer determined that the Appellant is 'Not Disabled' using decision code 231(Exhibit 6, pgs. 65, 80). I find this determination is accurate.

While I find the Appellant testified credibly, the Appellant's current stability supports DES's determination. Therefore, I find that DES was correct in determining that the Appellant is not disabled at this time pursuant to the Regulations *supra*. According, this appeal is denied.<sup>3</sup>

## **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.

---

<sup>3</sup> This denial does not preclude the appellant from re-applying for disability through DES.

---

Patrick Grogan  
Hearing Officer  
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616