

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2500352
<b>Decision Date:</b>	04/22/2025	<b>Hearing Date:</b>	02/24/2025
<b>Hearing Officer:</b>	Susan Burgess-Cox		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Elizabeth Nickoson (Taunton MEC) & Eileen  
Cynamon (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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Disability
<b>Decision Date:</b>	04/22/2025	<b>Hearing Date:</b>	02/24/2025
<b>MassHealth's Reps.:</b>	Elizabeth Nickoson (Taunton MEC) & Eileen Cynamon (DES)	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<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 30, 2024, UMass Disability Evaluation Services, a unit that determines permanent and total disability of MassHealth applicants or members, notified the appellant that they determined that he is not disabled according to federal and state laws and regulations. (130 CM R 501.000; Exhibit 1). An appeal was filed on January 7, 2025. (130 CMR 610.015; Exhibit 2). On January 7, 2025, the Board of Hearings dismissed the appeal as the appellant did not provide a copy of the notice from MassHealth. (130 CMR 610.034; 130 CMR 610.035; Exhibit 3). The appellant provided a copy of the notice, the Board of Hearings vacated the dismissal and scheduled a hearing for February 24, 2025. (130 CMR 610.048; Exhibit 4).

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

### Action Taken by MassHealth

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

## **Issue**

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

## **Summary of Evidence**

All parties appeared in-person. MassHealth representatives from the Taunton MassHealth Enrollment Center (Taunton MEC) and the UMass Disability Evaluation Services (DES) offered testimony regarding the appellant's financial eligibility for MassHealth as well as the evaluation of his disability claims. Documents submitted by MassHealth were incorporated into the hearing record as Exhibit 5 and Exhibit 6.

The Taunton MEC representative testified that the appellant is a family group of one and has income of \$780 each week or \$3,379.74 each month. After deducting a regulatory disregard of 5% of the federal poverty level (\$62.75), the appellant's modified adjusted gross income (MAGI) of \$3,316.99 is at 264.30% of the federal poverty. The Taunton MEC representative testified that to be eligible for MassHealth, individuals need to have income below 133% of the federal poverty level or \$1,670 each month for a family group of one unless they have been deemed disabled or meet another eligibility category that may allow for a higher income standard.<sup>1</sup>

The appellant's representative did not challenge the family group composition or income amount presented by the Taunton MEC representative. As the appellant's representative did not have any additional questions regarding financial eligibility, and the Taunton MEC representative did not have any further testimony or evidence, the parties agreed to dismiss the Taunton MEC representative from the hearing.

DES received a disability supplement in November 2024 along with documents including a letter of treatment from a provider and a statement of need for continued insurance coverage. (Testimony; Exhibit 5; Exhibit 6). The DES representative testified that the information submitted with the supplement was not sufficient to evaluate the appellant's condition in and of itself. DES requested and obtained medical documentation from other providers. In response to the requests, DES received records from providers at the [REDACTED] Center and [REDACTED]

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<sup>1</sup> This calculation is based upon the income standards and federal poverty level guidelines that were in effect at the time of the eligibility decision on appeal. In March 2025 MassHealth updated their income standards and federal poverty guidelines with a calculation of 133% of the federal poverty level as \$1,735. The appellant's income still exceeds the standards set by MassHealth.

[REDACTED] Records from the MRP state that the notes from a LICSW “are not part of their designated record set and do not get released”. (Testimony; Exhibit 5; Exhibit 6). DES determined that the records received were sufficient to complete the evaluation.

Records from providers and notes on the disability supplement presented by the appellant indicate that the appellant has a diagnosis of generalized anxiety disorder, bipolar disorder, and unspecified and major depressive disorder. (Testimony; Exhibit 5; Exhibit 6). In January 2023, the appellant tapered himself off his medications and began experiencing paranoia, agitation and bizarre behaviors. (Testimony; Exhibit 5; Exhibit 6). At that time, the appellant was able to obtain assistance and support from his providers, resumed his medications and met with a therapist and psychiatrist regularly. (Testimony; Exhibit 5; Exhibit 6). Since then, the appellant was seen by physicians who note that he is well managed on his current medications and on exam he was alert, oriented, with normal mood, behavior, thought content and judgement. (Testimony; Exhibit 5; Exhibit 6). Records indicate that the appellant has remained on the same medication regimen from January 2024 to November 2024. (Testimony; Exhibit 5; Exhibit 6).

The appellant is currently working and feeling content in his job. (Testimony; Exhibit 5; Exhibit 6). At work, the appellant was receiving training and additional duties with the potential for a promotion. (Testimony; Exhibit 5; Exhibit 6). Records indicate that the appellant exercise and bikes regularly. The appellant reported to a provider that he is sleeping and eating well and feeling confident socially and at work.

In addition to reviewing records presented by the appellant and his providers, the disability reviewer obtained a mental residual functional capacity (RFC) review where it was determined that the appellant does not have any moderate or marked mental limitations that would interfere with his ability to perform work in a competitive labor market. DES did not obtain a physical RFC as the appellant did not report any physical conditions.

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

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

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

Step 1 is waived for MassHealth eligibility purposes. The DES review progressed to Step 2. The DES representative testified that the appellant listed the following health issues on the supplement: depression; anxiety disorder; mood disorder; Attention Deficit Hyperactivity Disorder (ADHD) (high spectrum); and social anxiety disorder. (Testimony; Exhibit 5; Exhibit 6).

In performing this review, DES utilized the disability supplement submitted by the appellant, records from the appellant's providers and a Mental Residual Functional Capacity test completed by a physician advisor. (Testimony; Exhibit 5; Exhibit 6).

Records from providers and notes on the disability supplement presented by the appellant indicate that the appellant has a diagnosis of generalized anxiety disorder, bipolar disorder, and unspecified and major depressive disorder. (Testimony; Exhibit 5; Exhibit 6). Records presented do DES show that the appellant has been in full compliance with taking medication, endorsed that he had a stable mood and good control of his symptoms while denying side effects. (Testimony; Exhibit 5; Exhibit 6). The appellant has remained on the same medication regimen from January 2024 to November 2024. (Testimony; Exhibit 5; Exhibit 6). Records from a March 2024 show the appellant stating that he was doing well on his meds and feeling content in his job. (Testimony; Exhibit 5; Exhibit 6). In [REDACTED], the appellant reported a promotion at work that included supervising a department, managing paperwork and having more responsibilities. (Testimony; Exhibit 5; Exhibit 6). The appellant reported that he was exercising and biking regularly; sleeping and eating well; and feeling confident at work and socially.

In January 2023, the appellant tapered himself off his medications and began experiencing paranoia, agitation and bizarre behaviors. (Testimony; Exhibit 5; Exhibit 6). At that time, the appellant was able to access assistance and support from his providers, resumed his medications and met with a therapist and psychiatrist regularly. (Testimony; Exhibit 5; Exhibit 6). Since then, the appellant was seen by physicians who noted that he was well managed on his current medications and on exam he was alert, oriented, with normal mood, behavior, thought content and judgement. (Testimony; Exhibit 5; Exhibit 6).

In addition to reviewing records presented by the appellant and his providers, the disability reviewer obtained a mental residual functional capacity (RFC) review where it was determined that the appellant does not have any moderate or marked mental limitations that would interfere with his ability to perform work in a competitive labor market. DES did not perform a physical RFC as the appellant did not report any physical complaints.

Based upon the information received from the appellant's providers and the Mental RFC,

MassHealth determined that the appellant did not have a medically determinable impairment (MDI) of a sufficient severity as to be the basis of finding an inability to engage in any substantial gainful activity. The DES representative testified that when evidence establishes only a slight abnormality or combination of abnormalities which would have no more than a minimum effect on an individual's ability to work, such impairment(s) will be found "not severe" and a determination of "not disabled" will be made by DES. DES conducted an initial review and then a final review and endorsement of the initial decision.

The appellant's representative did not dispute the findings presented by the DES representative. It was noted that the appellant has not seen a psychiatrist since July 2024 and been cutting his medications in half because he cannot afford them on his own. The appellant's representative noted that the appellant needs health insurance to maintain this stable condition. The appellant's representative noted that if the appellant is unable to maintain a proper medication regimen, he will likely end up in the hospital requiring treatment due to poor medication management. The appellant's representative noted that the appellant was on MassHealth Standard as a child, remained on due to COVID protections and then was not working for a period. The MassHealth representative testified that the appellant could be eligible for MassHealth CommonHealth if he was deemed disabled but at this time the agency has not deemed the appellant disabled.

## **Findings of Fact**

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

1. The appellant is a family group of one with income of \$780 each week or \$3,379 each week.
2. The appellant's modified adjusted gross income (MAGI) of \$3,316.99 is at 264.30% of the federal poverty.
3. DES received documents necessary to begin an initial disability evaluation.
4. A review of appellant's medical condition was undertaken by DES using a five-step sequential evaluation process established by Title XVI of the Social Security Act for the purpose of determining eligibility for medical assistance.
5. The five-step sequential evaluation process addresses the following:

Step 1: Is the applicant engaged in substantial gainful activity?

Step 2: Does the applicant have a medically determinable impairment (MDI) or combination of MDIs that is both severe and expected to last for a

continuous period of not less than 12 months?

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

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

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

6. The appellant is currently working.
7. In [REDACTED] appellant was promoted at work, supervising a department, managing paperwork and having more responsibilities.
8. The appellant has a diagnosis of generalized anxiety disorder, bipolar disorder, and unspecified and major depressive disorder.
9. The appellant is well managed on his current medications, takes them consistently and meets regularly with a therapist and psychiatrist.
10. A mental residual functional capacity (RFC) review determined that the appellant does not have any moderate or marked mental limitations that would interfere with his ability to perform work in a competitive labor market.
11. DES did not perform a physical RFC as the appellant did not report any physical complaints.

## **Analysis and Conclusions of Law**

A disabled adult 21 through 64 years old is eligible for MassHealth Standard if they are permanently and totally disabled as defined in 130 CMR 501.001. (130 CMR 505.002(E)(1)). The regulations define disabled as having a permanent and total disability. (130 CMR 501.001). Disability is established by:

- (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);
- (b) a determination of disability by the SSA; or
- (c) a determination of disability by the Disability Evaluation Services (DES). (130 CMR 505.002(E)(2)).

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

the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. (20 CFR 416.905(a)).

Title XVI of the Social Security Act establishes the eligibility standards, and both the five-step sequential evaluation for initial disability determinations, and the eight-step process for ongoing disability determinations. In this case, the five-step process was used because there was no initial review performed by MassHealth or the Social Security Administration. In determining eligibility for MassHealth, Step 1 is waived. At Step 2 DES determined that appellant does not have severe impairments. The determination was made based on medical documentation from the appellant's providers as well as consultative exams. (Testimony; Exhibit 5; Exhibit 6).

The appellant's representatives did not present any testimony or evidence to dispute these findings. In fact, they agreed with the assessment which determined that the appellant does not have any severe impairments. The appellant's representatives asked the agency to consider the consequences of ending coverage for someone like the appellant who is doing well because he receives the necessary treatment due to receiving MassHealth coverage. The representatives noted that once this coverage terminates, it is likely that the appellant will not maintain his current stability due to his inability to pay for the necessary services and medications. The MassHealth representative noted that the agency cannot make decisions on possibilities, only on the current condition. As the appellant's representatives did not present any evidence to challenge the facts presented by MassHealth, regarding the appellant's income or disability status, the decision made by MassHealth is correct.

This appeal is denied.

## **Order for MassHealth**

None.



## Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings



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