

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500849
Decision Date:	4/18/2025	Hearing Date:	02/26/2025
Hearing Officer:	Casey Groff		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Ryan Bond, Tewksbury MEC;
Yvette Prayor, R.N., Appeals Reviewer,
Disability Evaluation Services, ForHealth
Consulting at UMass Chan Medical School



*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
Decision Date:	4/18/2025	Hearing Date:	02/26/2025
MassHealth's Rep.:	Yvette Prayor, R.N.; Ryan Bond	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings, 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 11/12/24, UMass Medical School, Disability Evaluation Services (DES), acting on behalf of MassHealth, informed Appellant that as a result of an initial disability review, it determined that Appellant did not meet the criteria to be deemed disabled as defined under federal and state law. *See* Exh. 1. On 1/13/25, Appellant filed a timely request for a fair hearing with the Board of Hearings (BOH); however, in submitting the request, she did not identify the underlying MassHealth action prompting her appeal. *See* 130 CMR 610.015(B) and Exhibit 2. On 1/17/25, BOH dismissed Appellant's appeal for failure to identify an appealable action pursuant to 130 CMR §§ 610.034, 035. *See* Exh. 3. On 1/30/25, Appellant provided BOH with a copy of the 11/12/24 DES disability determination notice. *See* Exh. 1. An adverse eligibility determination is valid grounds for appeal. *See* 130 CMR 610.032. On receipt of the notice, BOH vacated the dismissal and scheduled an appeal to be heard on 2/26/25. *See* Exh. 4.

Action Taken by MassHealth

MassHealth, through DES, determined that Appellant did not meet the criteria to be deemed disabled as defined under Federal and State law, thereby preventing Appellant from obtaining MassHealth benefits on the basis of disability.

Issue

The issue on appeal is whether MassHealth erred in finding that Appellant is not permanently and totally disabled as defined under 130 CMR 501.001 and 130 CMR 505.002(F).

Summary of Evidence

A MassHealth eligibility representative appeared at the hearing and testified that Appellant is a [REDACTED]-year-old married female and resides in a household size of two. Appellant's husband receives a gross income of \$4,061 per month. This places Appellant at 229.87% of the federal poverty level (FPL). Typically, to qualify for MassHealth benefits, individuals who do not have a verified disability cannot have income that exceeds 133% of the FPL. For a household size of two (2), that income limit amounts to \$2,266 per month. If an individual is over the income limit but has a verified disability, they may be eligible for MassHealth CommonHealth. The representative testified that because Appellant does not have a verified disability on file and is over the income limit, she is ineligible for MassHealth benefits at this time.

Also appearing on behalf of MassHealth was an appeals reviewer from MassHealth's Disability Evaluation Services (DES) unit. Through oral testimony and documentary submissions, the DES representative presented the following evidence: DES, through its contract with MassHealth, renders clinical disability determinations as to whether an applicant is "permanently and totally disabled" as defined by the Social Security Administration. (SSA). The SSA 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." See Exh. 5, p. 8. To meet this definition, the individual "must have a severe impairment(s) that makes them unable to do past relevant work or any other substantial gainful work that exists in the regional economy." *Id.* MassHealth uses the SSA's 5-step evaluation process for rendering disability determinations, as set forth in 20 CFR §§ 416.920, 416.905. *Id.* at 20-22. The evaluation process is driven by the information contained in the claimant's medical records and adult disability supplement.

The representative testified that on 9/3/24, DES received Appellant's adult disability supplement in which she reported complaints of type 1 diabetes, hypothyroidism, depression and anxiety. *Id.* at 50-52. In response to questions pertaining to education and work history, Appellant reported that she graduated from Northeastern University in 1989 earning a bachelor's degree in business management. *Id.* She reported that she stopped working in 2017 to manage her diabetes. *Id.* Appellant did not identify past job titles, but did note that she was previously responsible for completing paperwork, filing, and using a computer, phone, and cash register. *Id.*

With the disability supplement, Appellant included signed medical releases allowing DES to obtain medical records from her treating health care providers, i.e., her endocrinology team at Joslin Diabetes Center (JDC) and her primary care physician (PCP) Dr. [REDACTED], MD. *Id.* at 30-34. DES received complete responses from all treating sources. Copies of these records were submitted into evidence and include, in summary, the following information:

- PCP records indicate that Appellant was seen on 9/26/23 for complaints of malaise and fatigue. *Id.* at 205. Notes from that encounter indicate that Appellant started taking escitalopram for depressive disorder; that she had recent stressors and reported not coping as well as she had before, waking during the night, and having to force herself to get dressed and go out. *Id.* at 208. During a follow-up visit on 11/1/23, Appellant reported that she was jet lagged after having just traveled out of the country. *Id.* at 203. On 1/17/24, Appellant reported family related stressors but noted that she was able to enjoy things and thought the medication helped. *Id.* at 198.
- Records obtained through JDC reflect multiple encounters between 9/11/23 and 11/4/24. According to background and social history notes that Appellant was diagnosed with type 1 diabetes in May of 2016 at age 50; her current occupation is homemaker, with prior work as an office manager. *Id.* at 151. Encounter notes for visits between 9/11/23 and 1/9/24 indicate that Appellant was administering insulin via a basal-bolus regimen of Toujeo and Novolog injections, as well as metformin. *Id.* at 152. Her hemoglobin A1c (HbA1c) levels during this time ranged from at 8.4% to 8.7% (with a normal reference range of 4.0 – 6.0 mg/dL). *Id.* at 98, 152, 140, 133. During the 1/9/24 visit, Appellant reported feeling shaky with low blood sugar; she and her provider discussed transitioning to an insulin pump. *Id.* at 131. At a follow-up visit on 4/9/24, Appellant's orders were placed to start Appellant on an OmniPod 5 insulin pump coupled with continued use of her Dexcom G6 continuous glucose monitor (CGM). *Id.* at 121. On 4/25/24 Appellant's HbA1c was at 7.9%. *Id.* at 221. On 7/2/24, Appellant's HbA1c level had dropped to 7.3%. *Id.* at 106. Notes from both the 7/2/24 visit and a follow-up visit on 8/6/24 indicated that Appellant did not have any episodes of severe hypoglycemia or diabetic ketoacidosis (DKA) since the prior visits. *Id.* at 95; 106. The last treatment record from 11/4/24 showed that Appellant's HbA1c was at 7.5% with no noted diabetic complications *Id.* at 83.
- Physical examinations from all treating sources were noted to be normal with no signs or symptoms of neuropathy, numbness, or paresthesia; no foot ulcers; strong dorsalis pedis pulse and posterior tibial pulse; no skin issues at injection sights; and normal pulmonary, gastrointestinal, and cardiovascular examinations. *Id.* at 97-98, 122, 131-133; 144, 151; 188; 193. At various encounters she reported walking her dog daily for 40-60 minutes and attending pilates a few times per week. *Id.* at 140; 208. A routine diabetic eye examination on 7/16/24 detected no evidence of diabetic retinopathy or vision impairment. *Id.* at 178. Medical records described Appellant's hypothyroidism as stable with normal T3, T4, and TSH lab results. *Id.* at 121, 144, 216-230. Aside from Appellant's elevated HbA1c and

glucose levels, other laboratory tests (e.g., complete blood count, comprehensive metabolic panel,) were normal. *Id.* at 216-230.

DES found that the medical records contained sufficient information to evaluate Appellant's physical complaints, but not her mental complaints of depression and anxiety. *Id.* at 46. Therefore, Appellant underwent a psychological consultative examination (CE) with [REDACTED], PsyD on 10/23/24. *Id.* at 35; 68.

The CE report written by Dr. [REDACTED] indicates, in relevant part, the following: Appellant is a married female with depression and anxiety for approximately 5 or 6 years; she has a license and can drive herself within the community; she does not see a therapist or psychiatrist but does take medication for her anxiety; she has no past psychiatric hospitalizations. Appellant finds that her diabetes is "overwhelming" as she completely depends on her insulin pump to manage her condition. Appellant's depression can result in episodes of anger and/or tearfulness; she has concerns with her energy levels and reported problems "staying asleep." Her anxiety can cause palpitations and hypervigilance related to worries of not getting her medicine. Appellant attends social gatherings; when she travels, she tries to stay private; she limits going places; she goes shopping but finds crowds "uncomfortable." Appellant reported that she has good relationships with family and friends; she is "good with money" and knows how to pay bills; she performs household and domestic activities including cleaning, keeping her home organized, walking her dog, and cooking for her family. Appellant speaks and is literate in both English and Russian; she has no difficulty completing forms or paperwork. Dr. [REDACTED] concluded that Appellant had depressive disorder and anxiety disorder with panic tendencies but ruled out obsessive compulsive disorder (OCD). *Id.* at 68-72.

Once the CE report was complete, DES had sufficient information to evaluate all Appellant's complaints and initiated the 5-step review process, which the DES representative described as follows:

- ❖ Step 1 considers whether the claimant is engaged in substantial gainful activity.

As Appellant reported that she was not currently employed, DES marked "no" and proceeded to Step 2. *Id.* at 56.¹

- ❖ At Step 2, the review asks whether the claimant has a medically determinable impairment (MDI) or combination of MDIs that is *both* severe and meets the duration requirement, i.e., expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months.

¹ The DES representative testified that at the federal level, an affirmative answer to Step 1 automatically renders the claimant not disabled; however, MassHealth waives this step regardless of whether the claimant is engaged in SGA.

Here, DES found sufficient documentation to conclude that Appellant's complaints met both the severity and duration requirements. Therefore, step 2 was answered in the affirmative and the review continued to Step 3. *Id.* at 56.

- ❖ 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?"

The DES representative testified that at step 3, the disability reviewer assessed whether Appellant met the criteria set forth in any of the applicable Social Security listings found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App.1. Based on Appellant's complaints, the following SSI listings were reviewed: 7.18 – *Repeated Complication of Hematological Disorders* (Diabetes); 12.04 – *Depressive, Bipolar and Related Disorders*; 12.06 – *Anxiety and Obsessive-Compulsive Disorders*; and 14.09 – *Inflammatory Arthritis* (Hypothyroidism). *Id.* at 56-67. Copies of each listing were submitted into evidence. *Id.*

The DES representative explained that specific listings for endocrinological disorders, including diabetes mellitus and thyroid disorders, have been eliminated. The SSA instructs disability reviews to evaluate endocrine disorders based on how the condition affects other body systems, signs of organ damage, and the severity in which the condition impacts daily functioning. To evaluate Appellant's diabetes, DES referred to listing 7.18 which entails the following:

7.18 *Repeated complications of hematological disorders* (see 7.00G2) including those complications listed in 7.05, 7.08, and 7.10 but without the requisite findings for those listings, or other complications (for example, anemia, osteonecrosis, retinopathy, skin ulcers, silent central nervous system infarction, cognitive or other mental limitation, or limitation of joint movement), resulting in significant, documented symptoms or signs (for example, pain, severe fatigue, malaise, fever, night sweats, headaches, joint or muscle swelling, or shortness of breath), and one of the following at the marked level (see 7.00G4)

- A. Limitation of activities of daily living (see 7.00G5).
- B. Limitation in maintaining social functioning (see 7.00G6).
- C. Limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace (see 7.00G7).

Id. at 58.

For her hypothyroidism, DES used listing 14.09 which sets forth four separate ways in which the equivalent listing can be met, including a documented inability/limitation in use at least one upper or lower extremity; involvement of organs/body systems to at least a moderate level of severity; documented constitutional symptoms or signs such as severe fatigue, fever, malaise with at least one marked limitation in the ability to perform ADLs, maintain social

functioning, and completing tasks in a timely manner. *Id.* at 65-66. In addition, SSI listings for Appellant's mental impairments under 14.09 and 12.04 each require that the claimant first meet level A criteria (i.e., a specified number of characteristics/symptoms of the disorder) *and* meet either B or C, that is, a specified number of either "extreme" or "marked" limitations in areas of mental functioning, as specified therein *or*, alternatively, a serious and persistent mental disorder of at least 2 years for which the claimant is receiving ongoing treatment with marginal adjustment. *Id.* at 59-64. On review DES found that the information obtained through the medical records did not sufficiently show that Appellant met and/or equaled an adult SSI criteria based off a single impairment or a combination of impairments. Therefore, DES ordered a residual functional capacity (RFC) assessment in preparation for steps 4 and 5. *Id.* at 4.

❖ *Residual Functional Capacity (RFC) for Steps 4 and 5.*

The DES representative testified that an RFC, as defined under 20 CFR 416.945, is the most that a person can do despite their limitations. *Id.* at 14. Unless a claimant meets a listing at step 3, it is the RFC assessment that is used to determine whether they are disabled, and specifically, whether they can still do past work, or, in conjunction with age, education and work experience, any other work. *Id.* at 30-33. The RFC is based on all relevant evidence in the case.

On 10/29/24, DES physician, Michael Rosenbloom, MD, completed a mental RFC and found that Appellant did not have any mental limitations that interfered with her ability to perform work in the competitive labor market. *Id.* at 73-24. Specifically, Dr. Rosenbloom found Appellant was "slightly limited"² in the categories of: understanding, remembering and carrying out detailed instructions; maintaining attention and concentration; being able to work at a consistent pace and making simple work related decisions; responding appropriately to criticism from supervisors; interacting appropriately with the general public, and responding appropriately to changes in the work setting. *Id.* at 73. Dr. Rosenbloom classified Appellant as "not limited" in all remaining mental RFC categories, including her ability to travel outside the home, understanding and carrying out simple instructions, and having the ability to learn tasks and adapt to new work setting with ordinary training. *Id.* No limitations were identified at either the moderate or marked levels.³ *Id.* When detailing the medical evidence used to support his conclusion, Dr. Rosenbloom noted, in relevant part, the following:

... [Appellant] experiences memory troubles due to her depression. She avoids visiting friends and family due to her behavioral health issues.... [During the CE] she complained of depression and waking up crying. She has problems sleeping

² "Slightly limited" according to the worksheet, means that "the effects of the mental disorder are transient and do not impact overall general functioning." *Id.* at 73

³ According to the mental RFC worksheet, a "moderate limitation" means the individual's capacity to perform the activity is impaired. "Markedly limited" means the individual cannot usefully perform or sustain the activity. *Id.* at 73.

through the night. She had a normal mental status exam, but did exhibit tearfulness. She was diagnosed with anxiety disorder with panic tendencies, depressive disorder, NOS, and rule out OCD. The available notes indicate that the client has depression and anxiety. She has been treated with citalopram and has otherwise had minimal psychiatric care. Mood issues have impacted her sleep. It is expected that she will have mild limitations in understanding/memory, sustained concentration, social interaction, and adaptation. *Id.* at 74.

On 11/8/24, Dr. Rosenbloom performed a physical RFC, concluding that Appellant did not have any exertional limitations, but did have postural and environmental limitations (i.e., hazards, machinery, heights, ladders/scaffolding, climbing, etc.). *Id.* at 75-77. In conducting the physical RFC assessment, Dr. Rosenbloom considered the following information obtained through Appellant's medical records:

[Appellant] uses an insulin pump, HbA1c 7.5 as of 11/4/24. Free T3 was within normal limits as of 4/26/24. Medical records indicate that both blood sugar and thyroid levels are well controlled. Limitations from working with heavy machinery/heights as well as ladders/scaffolding advised in light of type I diabetes treated with an insulin pump. *Id.* at 77.

Using the RFC assessments and Appellant's reported educational and work history, DES completed a vocational assessment and proceeded to step 4. *Id.* at 55.

- ❖ Step 4 asks whether the claimant retains the capacity to perform any past relevant work (PRW).

Because Appellant stopped working in 2017 and had no SGA to evaluate, DES answered "no" and proceeded to step 5. *Id.* at 57.

- ❖ Step 5 asks whether the claimant has the ability to make an adjustment to any other work, considering the claimant's RFCs, age, education, and work experience.

At step 5, the DR selected "Yes" citing the following three unskilled jobs available within both the regional and national economy according to the Occupational Employment Quarterly (OEQ)⁴ (1) 5120: Bookkeeping, Accounting & Auditing Clerks; (2) 5400: Receptionists and Information Clerks; and (3) 4720: Cashiers, *Id.* at 57. Descriptions of the quoted jobs were included in the DES submission. *Id.* at 78.

Based on the affirmative answer at step 5, DES concluded that Appellant was "Not Disabled." *Id.* at 57,79. This determination was reviewed and endorsed by DES physician advisors

⁴ The DES representative testified that this determination is made in accordance with the process outlined in federal regulations CFR §416.966, CFR 416.967, CFR §416.968, 416.969a. *Id.* at 22-28.

Nathaniel Manning, MD and Neelam Sihag, MD, effectively concluding the 5-step evaluation process. *Id.* at 54. 54,79. Through a notice dated 11/12/24, DES, on behalf of MassHealth, informed Appellant that it determined that she was not disabled based on federal and state law because she had the capacity to perform other work activity in the competitive labor market and, therefore, she was ineligible for MassHealth benefits by reason of disability. *Id.* at 80.

Appellant appeared at hearing and testified that she disagreed with the disability determination given the significant impact her diabetes has on all aspects of her life, both mentally and physically. Appellant testified that diabetes is a permanent, lifelong medical diagnosis that causes complications which only worsen over time. She is insulin-dependent, meaning that without treatment she will die. Because many people respond well to treatment, there is a common misconception that diabetes is not a serious disabling condition. However, other people, like herself, do not respond well to treatment which makes it significantly more difficult to manage. Appellant testified that her body is very resistant to insulin, and she has constant fluctuation of blood sugar levels.

Appellant asserted that her condition leaves her unable to maintain any type of work that would require her to be constantly available. Her condition is not dependable and significantly limits her life and the activities in which she can engage. When her blood sugar is high, she walks around like a zombie, she is in a daze and has brain fog. When it is low, she cannot leave home and is at risk of fainting. If she does leave, either for a walk or drive, she cannot go far because she needs to be able to quickly return home or call someone. If she wakes up at night with low blood sugar, she cannot get out of bed herself and relies on her husband to get her something to eat. The whole next day she is shaking and exhausted. She is completely dependent on her medication and having people available to help her. If she has to travel or leave for longer periods of time, she has to make sure she has enough insulin and all supplies. These factors essentially keep her homebound. The mental effects of her diabetes are “horrible.” Psychologically it is very depressing.

Appellant did indicate that since she started using the insulin pump last spring, her levels have gotten better, though they are still not fully controlled. Prior to the pump it was uncontrollable. Because she requires so much insulin, she has to change her pump every two days as opposed to the standard of three days. Although her Dexcom provides continuous glucose monitoring, it often malfunctions or will lose signal. If she is at a low and it provides incorrect information, it can be life or death. Therefore, she still has to manually monitor her levels in addition to the CGM.

In response, the DES representative testified that Appellant’s complaints were indeed reflected in the supporting records and were considered in DES’s determination. However, for purposes of SSA disability determinations, the question is whether the symptoms are severe enough to meet to meet the high threshold under SSA rules. The DES representative explained that her laboratory findings look good, and despite the elevated HbA1c levels, it is not unusual for a diabetic to have readings 2-3 percentage points above this amount. She also noted that her HbA1c levels improved

after starting the pump and have remained steady with 3-5 months of “pretty good” blood sugars for a diabetic. DES testified that SSA disability evaluations focus not only on maintaining blood sugar levels, but more significantly, whether there has been damage to the body or organs are a result of the body’s prolonged respond from the disorder. DES found sufficient information from the medical records to show that Appellant did not have complications commonly associated with diabetes, such as vision issues, retinopathy, neuropathy, swelling of the legs, skin issues or ulcers, renal failure or protein in the urine. Rather, her bloodwork, labs, and physical examinations looked good with no mentioning of fatigue or weakness. Overall, the evidence indicated that Appellant’s impairments do not limit her ability to care for herself to the extent necessary to be found disabled under Social Security rules.

Findings of Fact

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

1. Appellant is an adult under the age of 65; she lives in a household size of two with income at 229.87% of the FPL.
2. On 9/3/24, DES received Appellant’s adult disability supplement in which she reported complaints of type 1 diabetes, hypothyroidism, depression and anxiety.
3. Appellant has a bachelor’s degree in business management; she stopped working in 2017 following her diabetes diagnosis.
4. JDC encounter notes for visits between 9/11/23 and 1/9/24 indicate that Appellant’s diabetes treatment involved a basal-bolus regimen insulin via injection, as well as metformin; her HbA1c levels during this time ranged from at 8.4% to 8.7%
5. After transitioning to an OmniPod 5 insulin pump on/around 4/9/24, Appellant’s HbA1c levels were at 7.9% (4/25/24), 7.3% (7/2/24), and 7.5% (11/4/24) with no episodes of severe hypoglycemia DKA, or noted diabetic complications.
6. Physical examinations from all treating sources were normal with no signs or symptoms of neuropathy, numbness, or paresthesia; no foot ulcers; strong dorsalis pedis pulse and posterior tibial pulse; no skin issues at injection sights; and normal pulmonary, gastrointestinal, and cardiovascular examinations.
7. A routine diabetic eye examination on 7/16/24 detected no evidence of diabetic retinopathy or vision impairment.
8. Medical records described Appellant’s hypothyroidism as stable with normal T3, T4, and TSH lab results; aside from HbA1c and glucose levels, other laboratory tests were normal.

9. A psychological CE on 10/23/24 concluded that Appellant had depressive disorder and anxiety disorder with panic tendencies but ruled out OCD.
10. Appellant has an MDI(s) that is *both* severe and meets the duration requirement.
11. DES determined that Appellant's condition did not meet any of the SSA Listings set forth for: 7.18 – *Repeated Complication of Hematological Disorders* (Diabetes); 12.04 – *Depressive, Bipolar and Related Disorders*; 12.06 – *Anxiety and Obsessive-Compulsive Disorders*; and 14.09 – *Inflammatory Arthritis* (Hypothyroidism). *Id.* at 56-67.
12. A mental RFC on 10/29/24 found that Appellant did not have any mental limitations that interfered with her ability to perform work in the competitive labor market.
13. A physical RFC on 11/8/24 concluded that Appellant did not have any exertional limitations, but did have postural and environmental limitations (i.e., hazards, machinery, heights, ladders/scaffolding, climbing, etc.).
14. DES determined that Appellant, in consideration of her age, education, and work experience has the ability to make an adjustment to other work that is available in sufficient numbers in the national and regional economy.
15. Through a notice dated 11/12/24, DES, on behalf of MassHealth, informed Appellant that she was not deemed disabled, and therefore not eligible for benefits on the basis of disability.

Analysis and Conclusions of Law

In order to be deemed “disabled” for purposes of establishing eligibility for MassHealth benefits, an individual must be “permanently and totally disabled” as defined under Title XVI of the Social Security Act. See 130 CMR 501.001. MassHealth only recognizes disability determinations that have been verified through the Massachusetts Commission for the Blind; (b) the Social Security Administration (SSA); or (c) Disability Evaluation Services (DES). See 130 CMR 505.002(E)(2). If an individual's disability is verified through one of these three agencies, they may be eligible for either MassHealth Standard (if their income is under the allowable limit) or MassHealth CommonHealth. See 130 CMR 505.002(F), 130 CMR 505.004.

According to Title XVI of the Social Security Act, a permanent and total disability is “the inability to engage in 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.” See 20 CFR 416.905, 130 CMR 501.001. To meet this definition, the physical or mental impairments must be 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.” *Id.* MassHealth has adopted the SSA’s 5-step sequential evaluation process for determining disability, as codified in federal regulations at 20 C.F.R. § 416.920(a)(4).

In this case, DES, acting on behalf of MassHealth, rendered an initial disability evaluation of Appellant based on her alleged impairments of type 1 diabetes mellitus, hypothyroidism, depression, and anxiety. The review was based on the information provided by Appellant in her adult disability supplement, medical records from her treating sources, and through a DES-initiated consultative examination (CE). It is the claimant’s responsibility for identifying and/or producing the evidence of disability for the reviewing agency. *See* 20 CFR. § 416.912.

Following the 5-step evaluation process, DES concluded at step 1 that Appellant had not engaged in substantial gainful activity since 2017 - shortly after the onset of her diabetes diagnosis.⁵ At step 2, DES appropriately concluded that Appellant had a medically determinable impairment(s) which was severe. However, at step 3, DES concluded that those impairments did not—either in isolation or in combination—meet or equal a “listed” impairment. *See* 20 C.F.R. § 404. Specifically, DES reviewed SSI listings for 7.18 – *Repeated Complication of Hematological Disorders* (Diabetes); 12.04 – *Depressive, Bipolar and Related Disorders*; 12.06 – *Anxiety and Obsessive-Compulsive Disorders*; and 14.09 – *Inflammatory Arthritis* (Hypothyroidism). *Id.* at 56-67. The operative question at this step of the evaluation is whether the claimant’s impairments are of such a severity that they either meet or equal *all* requisite listing criteria to automatically be deemed disabled. *See Bowen v. Yuckert*, 482 U.S. 137, 153, (1987) (step 3 “streamlines the decision process by identifying those claimants whose medical impairments are so severe that it is likely they would be found disabled regardless of their vocational background.”). As outlined in the aforementioned listings, a disability finding at stage 3 requires not only a finding that the claimant possess the requisite number of characteristics of the disorder itself, but also evidence that the impairment(s) is substantially severe to limit the certain functional capabilities. For example, listing 7.18 (used for diabetes) requires, in addition to other criteria, that the claimant has a **marked**⁶ limitation in their ability to perform ADLs, maintain social functioning, or complete tasks in a timely manner due to deficiencies in concentration, persistence, or pace. *Id.* at 58. Similarly, the listings used to evaluate Appellant’s mental impairments required, in part, a finding of an “extreme” or “marked” limitation in mental functioning *or*, alternatively, a serious and persistent mental

⁵ This first step, however, is waived in MassHealth DES reviews, and the review automatically proceeds to step 2.

⁶ A “marked limitation,” as used in SSI listings 7.18, 12.04, and 12.06 mean that the symptoms and signs of the disorder interfere *seriously* with the claimant’s ability to independently, appropriately, and effectively function on a sustained basis in the particular area being considered. *See* 20 CFR Ch. III, Pt. 404, Subpt. P, App.1, § 7.00G(4) and 12.00F

disorder of at least 2 years for which the claimant is receiving ongoing treatment with marginal adjustment. *Id.* at 59-64. While Appellant provided credible testimony about the difficulties she experiences in managing her diagnoses, there was insufficient evidence to demonstrate that her impairments rose to the heightened standards imposed at step 3.⁷ Because no listings were met, DES appropriately answered “no” at step 3 and proceeded to the next step in the evaluation.

After completing a Residual Functional Capacity (RFC),⁸ DES proceeded to steps 4 and 5. DES answered “no” at step 4 – finding that Appellant did not retain the capacity to perform any past relevant work. Given that Appellant did not submit information of past relevant work to evaluate, the DES determination at step 4 was appropriate. *See* Exh. 5, pp. 55-57. At step 5, however, DES determined that, in conjunction with age, education and work experience, she was capable of other work within the national and regional economy. *Id.* at 30-33. DES identified 3 examples of unskilled jobs, as listed in the OEQ, consisting of (1) 5120: Bookkeeping, Accounting & Auditing Clerks; (2) 5400: Receptionists and Information Clerks; and (3) 4720: Cashiers, *Id.* at 57. Based on DES’s affirmative answer at step 5, appropriately concluded that Appellant was “not disabled.”

Appellant did not sufficiently demonstrate that DES, on behalf of MassHealth, erred in concluding that she was not disabled. The evidence indicates that Appellant is ■ years of age and has a bachelor’s degree in business management. Although she did not list specific past job titles in her adult disability supplement, she did list having prior work responsibilities of completing paperwork, filing, and using a computer, phone, and cash register. *Id.* at 3-4. Medical records note that Appellant previously worked as an office manager. According to the RFC’s performed by, Michael Rosenbloom, MD, Appellant’s mental impairments render her “slightly limited” in the categories of: understanding, remembering and carrying out detailed instructions; maintaining attention and concentration; being able to work at a consistent pace and making simple work related decisions; responding appropriately to criticism from supervisors; interacting appropriately with the general public, and responding appropriately to changes in the work setting. *Id.* at 73. With respect to Appellant’s physical impairments, Dr. Rosenbloom concluded that Appellant had postural limitations related to climbing, such as ladders, scaffolding, etc., and environmental limitations related to hazards, e.g., machinery, heights, etc. *Id.* at 74-77. Without having any identified moderate or marked mental limitations and without any identified exertional, manipulative, visual, or communicative physical limitations, DES was able to identify multiple categories of available work that Appellant was capable of performing, despite her impairments.

Appellant objected to DES’s conclusion that she could maintain a steady job, asserting that her condition is not dependable and has a limiting effect on her ability to function. The medical records due indeed reflect Appellant’s resistance to insulin with elevated glucose and HbA1c

⁷ As discussed in further detail below, the specific evidence which supported the basis for a finding of not disabled at stage 5, also serve as the basis for why Appellant did not meet any of the applicable listings at step 3.

⁸ As discussed at hearing, a RFC, as defined under 20 CFR 416.945, is the most that a person can do despite their limitations.

levels. Medical records also reflect that after starting an insulin pump in April 2024, Appellant's HbA1c levels, though still elevated, improved and remained steady for the last approximate 5 months of the review period. DES correctly noted that in addition to management of blood glucose levels, disability reviews for diabetes also consider the impact the disease has on other body systems and organ function.⁹ As such, DES also considered the results of medical examinations and testing, which showed Appellant had no impairment in vision and no sign of retinopathy, she had no signs or symptoms of neuropathy or skin ulcers, no protein in urine, cardiovascular examinations and blood pressure readings were normal, no pulmonary or gastrointestinal issues on examination, and her hypothyroidism remained stable and well-controlled with medication.

Notably, DES did not overlook the fact that Appellant, according to her own statements and as reflected in the medical records and CE, is deeply affected by her diabetes. The evidence indicates that fluctuations in her blood sugar can cause episodes of tiredness, fatigue, shakiness, and brain fog. Her complaints of anxiety and depression, which also impact her social functioning and concentration, began shortly after receiving her type 1 diabetes diagnosis. While credible, Appellant's testimony lacked sufficient detail regarding the frequency and related severity of these symptoms to conclude that they prevent her from working. Moreover, her testimony must also be considered in conjunction with other evidence presented in the medical records and CE, which indicates that Appellant is capable of performing routine household and domestic tasks, such as cleaning, organizing the house, and cooking, and walking her dog daily. This information does not negate the challenges that Appellant experiences, but it is relevant to capture an overall picture of Appellant's level of functioning. In considering the totality of evidence, DES appropriately concluded that Appellant was not disabled as defined under Title XVI of the Social Security Act. *See* 130 CMR 501.001. Without a verified disability and with income over 133% of the FPL, Appellant is ineligible for MassHealth benefits at this time.

Based on the foregoing, 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

⁹ The SSA instructs reviewers to evaluate impairments that result from endocrine disorders, such as diabetes under the listings for other body systems (e.g., body systems that may be affected due to chronic hyperglycemia, hypoglycemia, or DKA, for example). *See* 20 CFR Ch. III, Pt. 404, Subpt. P, App.1, § 9.00

receipt of this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Casey Groff
Hearing Officer
Board of Hearings

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

DES, UMASS