

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2502656
Decision Date:	6/2/2025	Hearing Date:	03/18/2025
Hearing Officer:	Kimberly Scanlon	Record Open to:	04/11/2025

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Lashaun Kelley – Quincy MEC;
Eileen Cynamon, B.S.N., R.N., Appeals
Reviewer, Disability Evaluation Services (DES),
ForHealth Consulting at UMass Chan Medical
School;
Yvette Prayor, R.N., Appeals Reviewer,
Disability Evaluation Services (DES), 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	Issues:	Disability and Eligibility
Decision Date:	6/2/2025	Hearing Date:	03/18/2025
MassHealth's Reps.:	Lashaun Kelley; Eileen Cynamon, B.S.N., R.N.; Yvette Prayor, R.N.	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 6 (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 February 3, 2025, MassHealth notified the appellant that she no longer meets the MassHealth disability requirements. (Exhibit 1, p. 1). Through a separate notice dated December 26, 2024, MassHealth notified the appellant that her benefits were being downgraded from CommonHealth to Health Safety Net because of a change in circumstances (Exhibit 1, pp. 2-6). The appellant filed this appeal in a timely manner on February 13, 2025 (130 CMR 610.015(B); Exhibit 2). Denial and/or reduction of assistance is valid grounds for appeal (130 CMR 610.032). The notices were consolidated, and a fair hearing was scheduled for March 18, 2025¹ (Exhibit 6).

¹ The Board of Hearings (BOH) initially scheduled the appellant's fair hearing to take place on March 28, 2025 (Exhibit 5). The appellant subsequently requested that a fair hearing take place prior to that date and the BOH granted her request.

Action Taken by MassHealth

MassHealth notified the appellant that she no longer meets the MassHealth disability requirements, and that her benefits were being downgraded from CommonHealth to Health Safety Net.

Issue

The appeal issues are whether MassHealth was correct in determining that the appellant is not permanently and totally disabled, and whether MassHealth was correct in downgrading the appellant's coverage from CommonHealth to Health Safety Net.

Summary of Evidence

The MassHealth representative appeared telephonically and testified as follows: on December 26, 2024, MassHealth received a determination from the Disability Evaluation Services (DES) Unit that the appellant is not disabled. (Exhibit 1, p. 1). She stated that based on the DES determination, MassHealth notified the appellant on or about December 26, 2024, that her benefits were being downgraded from CommonHealth to Health Safety Net (Exhibit 1, pp. 2-6). The MassHealth representative testified that the appellant resides in a household of 1, and her gross monthly income is \$2,845.00, which equates to 221.77% of the Federal Poverty Level (FPL) for her household size. The appellant did not dispute this determination.

DES was represented at the hearing telephonically by two registered nurses and clinical appeals reviewers who testified as follows: DES's role is to determine for MassHealth if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. They testified that DES uses a 5-step process, as described by SSA regulations at Title 20 Code of Federal Regulations (CFR) to determine initial disability status (See, 20 CFR 416.920; Exhibit 7, pp. 28-30). The process is driven by the applicants' medical records and a completed disability supplement. The SSA regulations state that the definition of disability is 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, 20 CFR 416.905; Exhibit 7, p. 21). To meet this definition, you must have a severe impairment(s) that makes you unable to do your past relevant work or any other substantial gainful work that exists in the regional economy. Per CFR 416.989, adult MassHealth applicants that have been previously declared disabled will periodically undergo a Continuous Disability Review (CDR) to determine if an applicant remains clinically eligible for disability (Exhibit 7, p. 50). A CDR is initiated by DES at the request of MassHealth. The CDR is an 8-step evaluation process as described within CFR 416.994 (Exhibit 7, pp. 51-68).

Per SSA CFR 416.994, if an applicant is entitled to disability benefits as a disabled person aged 18 or over (adult) there are several factors considered in deciding whether eligibility for disability continues. DES must determine if there have been any substantial improvements in an applicant's impairment(s) and if so, whether this medical improvement is related to his or her ability to work. Even where medical improvement related to an applicant's ability to work has occurred, DES must also show that he or she is currently able to engage in substantial gainful activity (SGA) before DES can find that he or she is no longer disabled.

To ensure that disability reviews are carried out in a uniform manner, that a decision of continuing disability can be made in the most expeditious and administratively efficient way, and that any decisions to stop disability benefits are made objectively, neutrally, and are fully documented, DES will follow specific steps in reviewing the question of whether an applicant's disability continues. The CDR may cease, and benefits may be continued at any point if it is determined there is sufficient evidence to find that an individual is still unable to engage in substantial gainful activity. The 8-step sequential review process is listed within CFR 416.994(b)(5) (Exhibit 7, pp. 64-68).

DES testified that the appellant is a [REDACTED] female who was initially determined disabled in 2001. Her first CDR was completed in July 2015. At that time, the clinical documentation that was submitted to DES on her behalf supported her continued disability at Step 5 with a finding that there was no medical improvement based on the RFC. For purposes of the current review, the appellant's 2015 CDR will be referred to as the Comparison Point Determination (CPD) (Exhibit 7, pp. 482-489). On December 16, 2024, DES received the appellant's most recent disability supplement. However, several of her medical record release forms were incorrectly completed or missing. On December 23, 2024, DES returned the appellant's paperwork for correction, along with a letter indicating which items required completion or correction for DES to process her disability supplement (Exhibit 7, pp. 108-110). DES, the appellant, and the Ombudsmen office exchanged several communications and successfully obtained a complete MassHealth disability supplement with valid medical releases on January 16, 2025. Once DES received all necessary paperwork, the appellant's current CDR was initiated.

DES testified that the appellant reported the following current and continued health conditions on her disability supplement, as follows: chronic pain related to Hereditary Multiple Exostosis (HME) and Osteochondromas (HMO), hypermobility type Ehlers Danlos Syndrome (hEDS), multiple Tarlov Cyst Syndrome and syringomyelia, Fibromyalgia, Raynaud's Syndrome, Osteoarthritis (OA)/Rheumatoid Arthritis (RA), Sjogren's Syndrome, Irritable Bowel Syndrome (IBS) with intestinal dysmotility, Headache, Post Traumatic Stress Disorder (PTSD) and Obsessive-Compulsive Disorder (OCD) (Exhibit 7, pp. 112-113).

DES acquired medical documentation using the medical releases that the appellant provided (Exhibit 7, pp. 71-94, 127). DES received information from all the appellant's reported providers, specifically: [REDACTED] of [REDACTED] Rheumatology [REDACTED] (Exhibit 7, pp. 168-

180), [REDACTED] of [REDACTED] Gastroenterology Clinic (Exhibit 7, pp. 181-189), [REDACTED] of [REDACTED] Gastroenterology Clinic (Exhibit 7, pp. 191-206), [REDACTED] of [REDACTED] Gastroenterology Associates (Exhibit 7, pp. 207-216), [REDACTED] of [REDACTED] Endocrinology Clinic (Exhibit 7, pp. 217-234), [REDACTED] of [REDACTED] Primary Care (Exhibit 7, pp. 235-286), [REDACTED] of [REDACTED] Lung Allergy Center (Exhibit 7, pp. 287-305), [REDACTED] of [REDACTED] Cardiology Medicine (Exhibit 7, pp. 306-345), [REDACTED] of [REDACTED] Cardiology Medicine (Exhibit 7, pp. 346-363), [REDACTED] of [REDACTED] Arthritis and Joint Center (Exhibit 7, pp. 363-373), [REDACTED] of [REDACTED] Comprehensive Neurology Clinic (Exhibit 7, pp. 374-378), and [REDACTED] [REDACTED] (Exhibit 7, pp. 379-441). DES testified that once sufficient medical and clinical documentation was received, the 8-step CDR review process began, which addresses the following:

- Step 1: Is the claimant engaging in substantial gainful activity (SGA)?
- Step 2: Do any impairment(s) meet or equal a listing in the current Listing of Impairments?
- Step 3: Is there any Medical Improvement (MI) (Decreased Severity)?
- Step 4: Is there Medical Improvement (MI) related to ability to work?
- Step 4b: This step is a vocational assessment, and it asks the reviewer to compare the Comparison Point Decision (CPD) RFC(s) with a MIRS (Medical Review Improvement Review Standard) RFC(s) and to determine if there is improvement.
- Step 6: This step asks if there are current impairment(s) or a combination of impairments that are severe?
- Step 7: Does the claimant retain the capacity to perform Past Relevant Work (PRW)?
- Step 8: Does the claimant have the ability to make an adjustment to any other work, considering the claimant's residual functional capacity, age, education, and work experience?

DES testified that Step 1 is waived by MassHealth regardless of whether the claimant is engaging in substantial gainful activity, noting that federal SSA regulations would stop if the appellant was engaging in SGA. DES explained that Step 1 is a SSA consideration having to do with earnings and has no bearing on whether someone is found disabled or not disabled. Here, the appellant's review at Step 1 was marked as "Yes" (Exhibit 7, p. 130). DES continued to Step 2.

DES testified that the CDR reviewer answered "No" at Step 2. The listings considered were 1.15

– Disorders of the Skeletal Spine Resulting in compromise of the nerve root(s), 1.18 – Abnormality of any Joint(s) in any extremity, 1.21 – Soft Tissue Injury or Abnormality under continuing surgical management, 5.06 – Inflammatory Bowel Disease (IBS), 11.14 – Peripheral Neuropathy, and 14.09 – Inflammatory Arthritis. Additional listings considered during this appeal review include: 11.02 – Epilepsy, 12.06 – Anxiety and Obsessive-Compulsive Disorders, 12.15 – Trauma-and-Stressor Related Disorders, 14.06 – Undifferentiated and Mixed Connective Tissue Disorders, and 14.10 – Sjogren’s Syndrome (Exhibit 7, pp. 137-156). DES continued to Step 3.

DES testified that the CDR reviewer answered “Yes: at Step 3 (Exhibit 7, p. 130). DES explained that a “Yes” response indicated that the appellant has had a significant decrease in medical severity in at least one of the impairments present at the time of CPD resulting in MI and that the CDR reviewer completed the MI comparison documentation (Exhibit 7, p. 131). DES further explained that for the duration of the review, Residual Functional Capacity (RFC) assessments are necessary. An RFC is a clinical assessment that describes what a person can still do despite their impairments. Current RFCs are also needed for Steps 7 and 8. As to the appellant, [REDACTED] completed the CPD Physical RFC on July 2, 2015 which indicated that she was capable of performing the full range of sedentary work activity (Exhibit 7, pp. 463-464). On July 10, 2015, [REDACTED] completed the CPD Mental RFC, which indicated that the appellant was capable of performing basic, unskilled work activity (Exhibit 7, pp. 465-466).

On January 28, 2025, [REDACTED] completed the appellant’s current Medical Improvement Review Standard (MIRS), indicating that the appellant is capable of performing the full range of light work activity (Exhibit 7, pp. 157-159) as follows:

[REDACTED] in his summary states, “[REDACTED] woman with hereditary multiple exostosis since childhood, low back pain without signs or imaging evidence of spinal stenosis or herniated disc on lumbar MRI, and laboratory and physical findings suggestive of collagen vascular disease. Past history of right ankle osteochondroma requiring surgical excision and fusion in 2015. Current neurology and rheumatology notes document normal gait. December of 2024 Rheumatology notes state physical examination showed normal range of motion in all joints and no synovitis. Her sed rate was normal. Hydroxychloroquine and Nortriptyline were helping the stiffness in her hands and joint pain. Progress notes by her neurologist in March of 2024 state she has chronic pain with possible functional neurological overlay. Episodes of neuropathic pain and right leg weakness were not present at the time of the March 2024 visit. Her symptoms improved with nortriptyline. She was deemed to be doing well overall and “can stand and do her job with modifications” (works as a [REDACTED]). A progress note in June of 2024 noted a

normal neurologic examination.” *Id.*

On January 31, 2025, [REDACTED] completed the appellant’s All-Current impairments Physical RFC (considering all impairments supported by current data as of December 10, 2024), indicating that the appellant is capable of performing the full range of sedentary work activity. (Exhibit 7, pp. 162-164).

In his summary [REDACTED] states “[REDACTED] woman with hereditary multiple exostosis since childhood, hEDS, fibromyalgia, Sjogren’s disease, asthma, irritable bowel disease with primarily constipation, benign positional vertigo, non-intractable migraines, low back pain without signs or imaging evidence of spinal stenosis or herniated disc on lumbar MRI, and connective tissue disease suggestive of SLE. Past history of right ankle osteochondroma requiring surgical incision and fusion in 2015. Current neurology and rheumatology notes document normal gait. December of 2024, Rheumatology notes state physical examination showed normal range of motion in all joints and no synovitis. Her sed rate was normal. Hydroxychloroquine and Nortriptyline were helping the stiffness in her hands and joint pain. Progress notes by her neurologist in March of 2024 state she has chronic pain with possible functional neurological overlay. The most recent MRI showed stable small perineal cysts (Tarlov cysts) at multiple levels in the cervical and thoracic spine. Her migraines were improved with Nortriptyline. She was deemed to be doing well overall and “can stand and do her job with modifications” (works as a [REDACTED] [REDACTED]). A progress note in June of 2024 noted a normal neurological examination. Cardiology notes from April of 2024 state that she has had no near syncope episodes since 2021 and was working 12 hours per day. Cardiac work up for palpitations and atypical chest pain had shown a normal stress test, echo, and monitoring. Recent progress notes indicate she has a normal physical impairment extremity strength and joint range of motion suggesting she has no major physical impairment from her right ankle fusion. Her hypothyroidism, migraine headaches, Tarlov cysts, and IBD with primarily constipation are not currently causing any significant physical impairment.” *Id.*

On February 2, 2025, [REDACTED] completed the appellant’s No-New Impairments Mental RFC (considering all impairments as of December 10, 2024, noting there was no evidence of any new impairments since the April 15, 2015 CPD), indicating that the appellant is capable of performing basic, unskilled work activity (Exhibit 7, pp. 160-161). Per [REDACTED] summary:

"The applicant is a [REDACTED] female who reported multiple medical conditions including fibromyalgia, Ehler-Danlos Syndrome, osteoarthritis, and she also noted mental health issues of posttraumatic stress with obsessive-compulsiveness concerns. The applicant's primary language is [REDACTED] and she is able to speak, understand, read, and write in English as well as [REDACTED]. The applicant also noted that she is a certified [REDACTED]. [REDACTED] Work history includes current employment, 36 hours weekly, as a senior [REDACTED] from 7/2017 to present. The applicant stated that she loves her job and is able to work because she has disability accommodations in place. The applicant described accommodations using a removal cast boot, walk aids and canes. She has an adapted computer to accommodate her medical and mental health needs. [REDACTED] [REDACTED] Primary Care provided a progress note (11/24/2024). The patient restarted sertraline 25 mg daily and she will follow with a therapist at [REDACTED]. She reported that her anxiety is improving and will increase sertraline to 50 mg daily. Diagnoses include generalized anxiety, major depressive disorder, recurrent, full remission, and panic anxiety syndrome. On examination, she was negative for self-injury, sleep disturbance and suicidal ideas. She was nervous and anxious. A PHQ-9 score was 5, suggesting mild depression and a GAD-7 score was 7 indicating moderate anxiety. On 12/13/2024, the patient reported significant improvement in anxiety symptoms following an increase in sertraline. She feels less stressed. She sees a therapist bi-weekly. A PHQ-9 score was 1 and GAD-7 score was 4 for mild anxiety. On exam, she had a normal mood and affect. On 3/7/2024, [REDACTED] Neurology saw the patient for follow up of neuropathic pain and functional neurological symptoms. She is a [REDACTED] with a multi-year history of chronic pain secondary to hereditary multiple exostoses s/p excision and radiation and hypermobile EDS. She reported that she is doing ok, and symptoms are relatively stable. She is functioning reasonably well, and she continues to work with modifications and using strategies learned at the [REDACTED] [REDACTED] pain program. A mental status examination noted she stood throughout the appointment; she was cooperative with good eye contact. Speech was normal and her mood and affect were euthymic. Thought process and content were normal and her insight and judgment were good. Major depression disorder was noted to be in full remission. [REDACTED]

provided progress notes for behavioral health treatment from 8/12/2024 through 12/18/2024. The applicant's diagnoses were noted as chronic PTSD, GAD, and MDD, in partial remission. Mental status examinations were consistently within normal limits. The provider listed the applicant's functional status as intact in each of the seven progress notes provided and that the patient has denied all areas of risk with no contrary clinical indications present. The applicant's mood was typically described as anxious/depressed and/or irritable. Based on review of the clinical records provided, there was no evidence to support marked impairment in any domain of psychological functioning. There is evidence to support moderate limitations in the applicant's ability to maintain attention and concentration and in her ability to maintain consistent persistence and pace in the work setting. These moderate limitations are based on necessity to rely on mental health modifications (i.e. adapted computer at work) without which the applicant would experience heightened anxiety and mental health barriers (obsessive-compulsive reactivity) in her ability to complete tasks as a [REDACTED] working in a demanding healthcare environment at 36 hours weekly. The applicant has successfully advocated for the accommodations that she receives, and which are necessary to fulfill the tasks of her employment. As a result, she has remarked that she "loves her job and is able to do her job" based on receiving appropriate accommodations. Additional moderate limitations are in social interactions, specifically in her ability to respond to criticism from supervisors and in adaptive function in her capacity to respond to changes in the work setting. These limitations are in the context of the applicant's anxious tendencies when dealing with increased anxiety and reactive response to perceived criticism. Also, the applicant's moderate limitations in responding to changes in the work setting may be secondary to a stress response in maintaining emotional control in highly stressful environments and adjusting to new situations. Overall, the applicant's depressive disorder has recently been assessed as being in full remission (10/22/2024 as per [REDACTED] Primary Care) or in partial remission as per [REDACTED] (12/18/2024)). The applicant has better control over anxiety (11/19/2024). *Id*

Step 4 asks if there is Medical Improvement (MI) related to the Appellant's ability to work. DES explained that since the Appellant's CDR determination was based on medical-vocational factors

using an RFC assessment the review then continues to Step 4b.

DES further explained that Step 4b asks, “does the comparison of the CPD RFC(s), with a Medical Review Improvement Review (MIRS) standard RFC(s) show improvement?” DES stated that the CDR reviewer considers only the impairments present at time of CPD when determining if the MI related to the ability to work. The reviewer completed the RFC comparison (Exhibit 7, p. 134) and found the MI does relate to ability to work, indicating “Yes.” The CDR reviewer is then directed to proceed to Step 6.

DES stated that Step 6 asks if there are current impairments or a combination of impairments that are severe? (Exhibit 7, p. 135). The CDR reviewer selected “Yes,” and the review process proceeded to Step 7.

DES stated that Step 7 asks does the claimant retain the capacity to perform Past Relevant Work (PRW)? (Exhibit 7, p. 136). DES explained that per the appellant’s description on her current Supplement, her current/past SGA work history as a [REDACTED] (See, Exhibit 7, p. 116) is Light, Skilled work (See, the Dictionary of Occupational Titles (DOT) 079.362-010 for [REDACTED] – STR Light, SVP 6, skilled). The CDR Reviewer selected “No” confirming the appellant’s current/past work exceeds both her Physical RFC and Mental RFC capabilities (basic, unskilled, sedentary) at the time and the review proceeded to the final step, Step 8.

DES stated that Step 8 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?” (Exhibit 7, p. 136). The CDR reviewer selected “Yes.” The reviewer referenced the Occupational Employment Quarterly (OEQ) and quoted three jobs available within both the regional and national economy: 5510 Couriers and Messengers, 5860 Office Clerks General, 5120 Bookkeeping, Accounting, Auditing Clerks. DES explained that this result of “Yes” on Step 8 means that the Appellant’s disability ceases and results in a determination that the Appellant is “Not Disabled” using decision code 231. Testimony. The 8-step CDR disability review process concluded with a final review and endorsement of the disability decision by Medical and Psychiatric Physician Advisors (PA) [REDACTED] and [REDACTED] on February 3, 2025 (Exhibit 7, pp. 127, 165). DES transmitted the decision to MassHealth and mailed a Disability Determination denial letter to the appellant on February 3, 2025 (Testimony; Exhibit 1, p. 1).

DES stated that in the interim, the appellant submitted additional information for pre-appeal consideration (post disability determination on February 3, 2025) (Exhibit 7, pp. 491-505). Additionally, DES stated that a statement from the appellant was received, and letters from [REDACTED] a cover sheet from [REDACTED] a letter from [REDACTED] a letter from [REDACTED] several letters from [REDACTED] copies of the appellant’s fair hearing request form and the DES disability denial letter, and multiple duplicate copies of the same described above (Exhibit 7, pp. 491-499, 501-505). DES testified that all additional documentation described above was evaluated by the Appeal Reviewer. DES stated that the

letters received primarily confirm ongoing treatment for previously identified diagnoses or conditions (they do not include recent objective exam notes or findings). Additionally, DES explained that the letters received include statements of support for continued disability benefit status (secondary insurance) and work-place accommodations and are consistent with the reviewed records submissions from [REDACTED] which were used during the original determination. DES stated that [REDACTED] letters are historical in content (2018-2021). DES stated that the appellant did not list [REDACTED] among her current (past 12 months) providers, and no current clinical records were received from this provider. DES stated that overall, the pre-appeal submitted documents do not provide compelling objective clinical information (worsening of current diagnosis/symptoms or novel diagnosis/symptoms) which might alter the 2/3/2025 disability determination from not disabled to a finding of clinically disabled.

DES concluded its testimony by stating that the appellant does not meet or equal the Adult SSI listings either individually or in combination of complaints. Additionally, the appellant has had a significant decrease in medical severity in at least one of her impairments present at the time of the 2015 CPD results in Medical Improvement and is related to her ability to work. The appellant's RFCs indicate that she is capable of performing basic, unskilled, sedentary work activity in the competitive labor market. The appellant's current employment (light, skilled) exceeds her RFC capabilities. However, there are within the regional/national economy, a significant number of jobs (in one or more occupations) having requirements which the appellant can perform based on her physical and mental capabilities and her vocational qualifications. DES finds that the appellant was correctly determined "Not Disabled" for Title XVI benefits (Testimony).

The appellant appeared at the hearing by telephone and testified as follows: while she understands and appreciates the explanation given by DES, she cannot operate a vehicle for longer than 15 minutes, nor can she presently work without accommodation. She explained that on occasion she is unable to stand and depends on her daughter to drive her to buy groceries. Additionally, she cannot afford her medical expenses without MassHealth as her insurance. She stated that she cannot afford to get an MRI to check on her cysts and tumors. She stated that while she has always been employed, she will not be able to continue her employment without MassHealth coverage and disability accommodation in place. The appellant stated that while her health may appear to be improved, that is because of her current medical team in place. If she loses her health coverage, her health will decline. She stated that she suffers from chronic pain and is trying to be a productive member of society. The appellant stated that she has multiple chronic illnesses, and she is not healthy. She expressed her fear of losing her CommonHealth secondary coverage because it will destroy her life and she will not be able to afford her rental expenses.

Post hearing the appellant submitted additional documentation for review and the record was re-opened for DES to review the appellant's submission (Exhibit 8). On April 11, 2025, DES confirmed the appellant's submission was received and reviewed. Specifically, DES received the following:

1. [REDACTED] 9/19/2016 - letter in support of job training and community supports (DES noted that this is a new submission).
2. [REDACTED] 11/20/17 - letter indicating appellant had completed job retraining, was employed, supportive of continued community supports and MassHealth secondary insurance (DES noted this is a new submission).
3. [REDACTED] 7/20/18 (See, Exhibit 7, p. 501)
4. [REDACTED] 2/16/20 (See, Exhibit 7, p. 502)
5. [REDACTED] 5/25/21 (See, Exhibit 7, p. 503)
6. 2025 Disability Appeal Letter by appellant (See, Exhibit 7, pp. 491-494)
7. [REDACTED] 2/12/25 (See, Exhibit 7 pp. 498-499)
8. [REDACTED] 3/3/2025- DES noted that this is a 13-page file with both new submissions and additional duplicated documents:
 - a. [REDACTED] 3/3/25 - letter in support of MassHealth secondary insurance (DES noted this is a new submission; however, DES received and review records from this provider spanning 6/17/24-7/28/24 (See, Exhibit 7, pp. 363-373)
 - b. [REDACTED] 2/28/25- letter indicating discussion with [REDACTED] and intent to order a shoulder MRI (DES noted that this is a new submission)
 - c. [REDACTED] 2/13/25 (See, Exhibit 7, p. 500)
 - d. [REDACTED] 2/12/25 – DES noted that this is a duplication of document #7
 - e. [REDACTED] 2/24/25 (See, Exhibit 7, pp. 495-496)
 - f. [REDACTED] 2/18/25 - letter in support of MassHealth secondary insurance (DES noted that this is a new submission; however, DES received and review records from this provider spanning 4/8/24-12/30/24 (See, Exhibit 7, pp. 168-180)
 - g. 2025 Disability Appeal Letter submitted by appellant - duplication of document #6.²

(Exhibit 8).

DES finally noted that the appellant included additional statements within the body of her email. DES explained that this information is not clearly sourced, making it difficult to differentiate between the appellant's own objective clinical findings found on an exam vs. symptomology and findings which can be associated with the diagnosis or condition in general. The above additional accessible documentation is consistent with the records and documents considered both at the time of the original decision and in the appeal review; no recent objective exam findings or significant change in client condition is documented warranting a reconsideration or alteration to the disability determination of Not Disabled (clinical ineligible) for Title XVI benefits. *Id.*

Findings of Fact

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

² DES further noted that the appellant included 2 links with her submission, however, neither link was accessible.

1. On or about February 3, 2025, MassHealth notified the appellant that she no longer meets the MassHealth disability requirements.
2. On or about December 26, 2024, MassHealth informed the appellant that her benefits were being downgraded from CommonHealth to Health Safety Net because of a change in circumstances.
3. The appellant filed a timely appeal for both notices on February 13, 2025.
4. The appellant is between the ages of 18-64, she lives in a household of 1, and her reported gross monthly income equates to 221.77% of the FPL.
5. DES determined that the appellant was disabled in 2015 upon completion of her CDR.
6. At that time, DES found that the clinical documentation that was submitted on the appellant's behalf supported her continued disability at Step 5, because there was no medical improvement.
7. On December 16, 2024, DES received the appellant's most recent disability supplement.
8. On December 23, 2024, DES returned the appellant's medical release forms to her for additional information and corrections.
9. On January 16, 2025, DES received all the appellant's paperwork to initiate a current CDR.
10. The appellant reported the following current health conditions on her supplement, as follows: chronic pain related to Hereditary Multiple Exostosis (HME) and Osteochondromas (HMO), hypermobility type Ehlers Danlos Syndrome (hEDS), multiple Tarvlos Cyst Syndrome and syringomyelia, Fibromyalgia, Raynaud's Syndrome, Osteoarthritis (OA)/Rheumatoid Arthritis (RA), Sjogren's Syndrome, Irritable Bowel Syndrome (IBS) with intestinal dysmotility, Headache, Post Traumatic Stress Disorder (PTSD) and Obsessive-Compulsive Disorder (OCD).
11. DES uses an 8-step CDR review process.
12. Step 1 is waived by MassHealth which asks if the claimant is engaged in SGA.
13. Step 2 asks whether the appellant's impairments meet or equal a listing in the current Listing of Impairments.
14. DES determined that the appellant's condition did not meet any of the categories or listings set forth in the Social Security Administration's listings for: 1.15 – Disorders of the Skeletal Spine Resulting in compromise of the nerve root(s), 1.18 – Abnormality of any Joint(s) in any extremity, 1.21 – soft Tissue Injury or Abnormality under continuing surgical

management, 5.06 – Inflammatory Bowel Disease (IBS), 11.14 – Peripheral Neuropathy, 14.09 – Inflammatory Arthritis, 11.02 – Epilepsy, 12.06 – Anxiety and Obsessive-Compulsive Disorders, 12.15 – Trauma and Stressor Related Disorders, 14.06 – Undifferentiated and Mixed Connective Tissue Disorders, and 14.10 – Sjogren’s Syndrome.

15. DES determined that there was medical improvement (decreased severity) which is asked in Step 3.
16. RFC reviews revealed that the appellant is capable of performing the full range of sedentary work activity, and that the Appellant is mentally capable of performing basic, unskilled work activity.
17. On January 28, 2025, [REDACTED] completed that appellant’s MIRS, indicating that the appellant is capable of performing the full range of light work activity, noting, in pertinent part, as follows: “[the appellant’s] symptoms improved with nortriptyline. She was deemed to be doing well overall and can stand and do her job with modifications.”
18. On January 31, 2025, [REDACTED] completed the appellant’s All-Current Impairments Physical RFC, indicating that the appellant is capable of performing the full range of sedentary work activity, noting, in pertinent part, as follows: “Current neurology and rheumatology notes document normal gait, In December of 2024, rheumatology noted state physical examination showed normal range of motion in all joints and no synovitis. [The appellant’s] sed rate was normal. Hydroxychloroquine and Nortriptyline were helping the stiffness in her hands and joint pain...The most recent MRI showed stable small perineal cysts...Her migraines were improved with Nortriptyline. She was deemed to be doing well overall and can stand and do her job with modifications....Cardiology notes from April of 2024 state that she has had no near syncope episodes since 2021 and was working 12 hours per day. Cardiac work up for palpitations and atypical chest pain had shown a normal stress test, echo, and monitoring...Her hypothyroidism, migraine headaches, Tarlov cysts, and IBD with primarily constipation are not currently causing any significant physical impairment.”
19. On February 2, 2025, [REDACTED] completed the appellant’s No-New Impairments Mental RFC, noting there was no evidence of any new impairments since the April 15, 2015 CPD and that the appellant is capable of performing basic, unskilled work activity. [REDACTED] noted in his summary, in pertinent part, as follows: “..work history includes current employment, 36 hours weekly, as a senior [REDACTED] from 7/2017 to present. The applicant stated that she loves her job and is able to work because she has disability accommodations’ in place. The applicant described using a removal cast boot, walk aids and canes. She has an adapted computer to accommodate her medical and mental health need....On December 13, 2024, the patient reported significant improvement in anxiety symptoms...She feels less stressed. She sees a therapist bi-weekly.... On March 7, 2024, [REDACTED] Neurology saw the patient for follow up of neuropathic pain and

functional neurological symptoms...She reported that she is doing ok, and symptoms are relatively stable. She is functioning reasonably well, and she continues to work with modifications and using strategies learned at the [REDACTED] pain program. A mental status examination noted she stood throughout the appointment; she was cooperative with good eye contact. Thought process and content were normal and her insight and judgment were good. Major depression disorder was noted to be in full remission..."

20. Step 4 of the DES review asks if there is Medical Improvement (MI) related to the appellant's work ability. Because the appellant's CDR determination was based on medical-vocational factors using an RFC assessment DES's review continues to Step 4b.
21. Step 4b asks whether the comparison of the CPD RFC(s), with a Medical Review Improvement Review (MIRS) standard RFC(s) show improvement. The CDR reviewer considers only the impairments present at the time of CPD when determining if the MI is related to the ability to work. The CDR reviewer completed the RFC comparison, and the MI does relate to the ability to work, indicating "Yes" and was directed to proceed to Step 6.
22. Step 6 asks if there are current impairments or a combination of impairments that are severe. The CDR reviewer found that there were current impairments or a combination of impairments that are severe, indicating "Yes" and proceeded to Step 7.
23. Step 7 asks if the claimant retains the capacity to perform Past Relevant Work (PRW). The appellant indicated on her supplement that her current/past SGA work history includes work as a [REDACTED]. The CDR reviewer selected "No" confirming that the appellant's current/past work exceeds her Physical and Mental RFC capabilities (of basic, unskilled sedentary work) and proceeded to the final step, Step 8.
24. Step 8 asks if the claimant has the ability to make an adjustment to any other work, considering the claimant's RFC, age, education, and work experience. The CDR reviewer selected "Yes" and referenced the Occupational Employment Quarterly (OEQ), quoting three jobs available within both the regional and national economy: 5510 Couriers and Messengers, 5860 Office Clerks General, 5120 Bookkeeping, Accounting, Auditing Clerks.
25. DES determined that the appellant is not disabled. The appellant is capable of being consistently employed despite her medical impairment(s), and she is capable of performing a variety of sedentary jobs.
26. Following the hearing the record was opened for the appellant's submission of additional documentation.

27. DES reviewed the appellant's submission and determined that there was not a recent objective exam findings or significant change in her condition that was documented in her submission that warranted a reconsideration or alteration to the disability determination of "Not Disabled" for Title XVI benefits.

Analysis and Conclusions of Law

In order to be found disabled for MassHealth Standard benefits, an individual adult must be "*permanently and totally disabled.*" (See, 130 CMR 501.001). The guidelines used in establishing disability under the MassHealth program are very similar to those used by the Social Security Administration. *Id.* Individuals who meet the SSA's definition of disability may establish eligibility for MassHealth Standard according to 130 CMR 505.002(E), or for CommonHealth according to 130 CMR 505.004. Per 20 CFR 416.905, the Social Security Administration defines disability as "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."

The federal Social Security Act establishes eligibility standards, and the 8-step evaluation tool used to conduct the Continuing Disability Review (CDR) reevaluations. The Continuing Disability Review reevaluations are periodically required by federal law, for those who have already previously been found disabled at some point under the 5-step test. (See, 20 CFR 416.994(b)(5)). If a determination of disability can be made at any step of the process, the specific evaluation process stops at that point.

The purpose of the CDR evaluation is to determine if there has been any medical improvement in the appellant's impairments, and, if so, whether this medical improvement is related to his or her ability to work. If the appellant's impairment(s) has not so medically improved, the reviewer must consider whether one or more of the exceptions to medical improvement applies. If medical improvement related to the appellant's ability to work has not occurred and no exception applies, the appellant's benefits will continue. Even where medical improvement related to the appellant's ability to work has occurred or an exception applies, in most cases, (See, paragraph (b)(4) of this section for exceptions), the reviewer must also show that the appellant is currently able to engage in substantial gainful activity before the reviewer can find that the appellant is no longer disabled.

The 8-Step Method for Continuous Disability Review

The 8-step method is the sequential evaluation process established by the Social Security Act and described in 20 CFR 416.994(b)(5) for the purpose of determining initial eligibility for Medicaid benefits such as MassHealth as described below:

At Step 1, it is determined as to whether the disability applicant is currently engaged in substantial gainful activity? If an applicant is engaged in such work with such income, the applicant may be found to be not disabled. Otherwise, the process continues on to Step 2. This step is waived in an

applicant's favor during a MassHealth disability review and MassHealth thus essentially begins its review at Step 2.

At Step 2, a decision is made as to whether the applicant's impairments meet or equal a listing in the current Listing of Impairments. The review then proceeds to Step 3.

At Step 3, it is asked whether there has been medical improvement or decreased severity of the ailment(s), which is determined by the Residual Functional Capacity (RFC) assessment. The review proceeds to Step 4, which asks the question of whether there is Medical Improvement related to the ability to work. In order to determine the Medical Improvement, the CDR reviewer is directed to Step 4b and compares the record at the initial determination of disability with the current record, including the physical and mental RFCs and the MIRS RFC.³

At Step 6 the CDR determines whether there are current impairments or a combination of impairments that are severe? If this step is answered "Yes," the review proceeds to Step 7.

At Step 7, a determination is made as to the applicant's residual functional capacity ("RFC"), and whether the applicant can perform some prior work based on his or her capacity. If the applicant can perform his or her prior work, the review ends, and Appellant is found to be "not disabled." Otherwise, the review proceeds to the final step at Step 8.

At the final step at Step 8, it is asked whether the applicant is able to perform any other work that is available in sufficient quantities in the national economy. If so, the applicant is found to be "not disabled." If the applicant is not found able to do other work, the applicant will be determined to be a "disabled" adult.

In the present case, DES correctly determined that the appellant is no longer disabled. As noted above, Step 1 is waived. At Step 2, DES determined that the extent of her condition, as indicated in the appellant's medical record and supporting documentation, did not qualify to meet the listing for 1.15 – Disorders of the Skeletal Spine Resulting in compromise of the nerve root(s), 1.18 – Abnormality of any Joint(s) in any extremity, 1.21 – Soft Tissue Injury or Abnormality under continuing surgical management, 5.06 – Inflammatory Bowel Disease (IBS), 11.14 – Peripheral Neuropathy, 14.09 – Inflammatory Arthritis, 11.02 – Epilepsy, 12.06 – Anxiety and Obsessive-Compulsive Disorders, 12.15 – Trauma and Stressor Related Disorders, 14.06 – Undifferentiated and Mixed Connective Tissue Disorders, and 14.10 – Sjogren's Syndrome. The medical records indicate that the appellant's own treating physicians noted ongoing treatment for several of the medical challenges that the appellant has experienced, but there is nothing in the medical record to support that the appellant's condition meets or equals a listing utilized by the SSA. Further, the appellant did not specifically argue, or submit any evidence, to suggest that she meets any of the listings identified above.

³ Step 5 considers exceptions to MI and permits a finding that disability ceased in situations where even though there has been no MI or MI is not related to the ability to work, evidence clearly shows that the person should no longer be considered disabled or never should have been considered disabled. Step 5 is not applicable here.

Because no listings were met, DES proceeded to Step 3. At Step 3 the DES found that the appellant's medical situation has vastly improved. The record supports this determination. Since 2015, the appellant has been able to work for up to 12 hours per day as a [REDACTED]. Further, she reported doing well in March 2024, her symptoms improved overall and that she can stand and do her job with modifications.

Here, the appellant's testimony and submissions show that her medical improvement in the past 9 years has been significant. Her own providers state that she is stable and her anxiety has improved. Further, in March of last year, the appellant reported that she is functioning reasonably well, and she continues to work with modifications and strategies learned. It was further noted on that same date that during a mental status examination, the appellant stood throughout the appointment, was cooperative, maintained good eye contact, her speech was normal, thought process and content were normal, her insight and judgment was good, and that she is in full remission of major depression disorder.

At Step 4, as noted by DES in its testimony and in its submission of records, the CDR reviewer determined that because the appellant's CDR determination was based on medical-vocational factors using an RFC assessment, the review continues to Step 4b. At Step 4b, the CDR reviewer only considers the impairments present at the time of the CPD when determining if the MI is related to the ability to work. Here, the CDR reviewer completed the RFC comparison and found that the MI does relate to the ability to work and was directed to Step 6. At Step 6, the CDR reviewer determined that, in this case, there are current impairments or a combination of impairments that are severe and proceeded to Step 7. At Step 7, the CDR reviewer determined that the appellant does not retain the capacity to perform Past Relevant Work (PRW), noting that the appellant's reported current/past work as a medical assistant exceeds both her Physical RFC and Mental RFC capabilities and proceeded to the final step, Step 8. These determinations are supported by the record.

At Step 8, the CDR reviewer determined that the appellant has the ability to make an adjustment to any other work, considering her RFC, age, education, and work experience, which resulted in DES's final determination that the appellant is not disabled. The record also supports this determination.

I find that the appellant testified credibly about her concerns regarding her present employment. However, as noted by DES, the appellant's current/past SGA work history as a [REDACTED] exceeds both her Physical RFC and Mental RFC capabilities. There are 3 available jobs that are available to her within the regional and national economy though, specifically: 5510 Couriers and Messengers, 5860 Office Clerks General, and 5120 Bookkeeping, Accounting, Auditing Clerks that could meet her Physical RFC and Mental RFC capabilities. The appellant did not present any compelling evidence to demonstrate that she cannot perform these jobs. Thus, I find that DES did not err in determining that the appellant has the ability to make an adjustment to other work, considering her RFC, age, education, and work experience.

In conclusion, the appellant has not met her burden to demonstrate that she continues to have a permanent and total disability. While the appellant testified credibly in raising legitimate concerns about her medical conditions and her ability to perform certain tasks, her testimony alone is insufficient to warrant a reversal of the DES decision. The records submitted and the appellant's testimony support the determination that she can safely engage in some forms of employment. Therefore, I find that the appellant has not established that she is permanently and totally disabled.

The appellant also appealed MassHealth's downgrade notice which states that her benefits are being downgraded from CommonHealth to Health Safety Net. The MassHealth representative explained that because DES determined that the appellant is no longer disabled, she no longer qualifies for CommonHealth coverage, and she is over the income limit for MassHealth benefits. MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a particular MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) *Standard* - for pregnant women, children, parents and caretaker relatives, young adults, 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) *CommonHealth* - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) *CarePlus* - for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) *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) *Small Business Employee Premium Assistance* - for adults or young adults who
 - (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
 - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
 - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) *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
- (7) *Senior Buy-In and Buy-In* - for certain Medicare beneficiaries.

130 CMR 505.001(A).

To establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. Here, the appellant meets the categorical requirements for MassHealth CarePlus coverage.⁴ However, she verified a gross monthly income of \$2,845.00, which equates to 221.77% of the 2025 FPL for her household size. The appellant did not dispute this income at the hearing. To qualify for MassHealth CarePlus benefits, the household income may not exceed 133% of the 2025 FPL, or \$1,735.00.⁵ The appellant is financially eligible for a Health Connector plan and for Health Safety Net benefits. I find that MassHealth correctly determined that the appellant's gross monthly income exceeds the FPL limit to receive MassHealth CarePlus benefits.

On this record, this appeal is denied.⁶

Order for MassHealth

None.

⁴ The record does not include any evidence to suggest that the appellant would be categorically eligible for any other MassHealth coverage type.

⁵ The FPL limit does not apply for CommonHealth benefits if DES determines that an applicant is deemed disabled; however, a monthly premium may be assessed dependent upon his or her gross monthly income.

⁶ This denial does not preclude the appellant from directing any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning Health Safety Net to 877-910-2100. Additionally, this denial does not preclude the appellant from reporting any changes in her gross monthly income to MassHealth so her eligibility can be redetermined.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

DES, UMASS