Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2503895
Decision Date:	7/23/2025	**Hearing Date:**	6/03/2025
Hearing Officer:	Patrick Grogan	**Record Open to:**	N/A

Appearances for Appellant:

[redacted]

Appearance for MassHealth:
Linda Phillips, RN, Associate Director of Appeals and Regulatory Compliance for UMass Chan Medical School

Interpreter:
N/A

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

APPEAL DECISION

Appeal Decision:	Denied	**Issue:**	Waivers, MFP-RS
Decision Date:	7/23/2025	**Hearing Date:**	6/03/2025
MassHealth's Rep.:	Linda Phillips	**Appellant's Reps.:**	[redacted]
Hearing Location:	Remote (MSTeams)	**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 11, 2025, MassHealth denied the Appellant's application for an MFP-RS Waiver because MassHealth determined that the Appellant was not clinically eligible. (see 130 CMR 519.007(H)(1) and Exhibit 1). The Appellant filed this appeal in a timely manner on March 3, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for an MFP-RS Waiver finding that that Appellant was not clinically eligible for the waiver. (Exhibit 1)

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.007(H)(1), in denying the Appellant's MFP-RS Waiver because of its finding that the Appellant cannot be safely served in the community within the Waiver.

Summary of Evidence

The Appellant is a MassHealth member under the age of 65. (Testimony, Exhibit 4) The Appellant had been incarcerated at a Massachusetts Correctional Institution, and was transferred to a [redacted] Hospital. (Testimony, Exhibit 5, pgs. 66-71) The Appellant's medical history includes a diagnosis of multiple sclerosis in 2000 for which he has been treated. (Testimony, Exhibit 5, pgs. 66-71). The Appellant has been physically declining secondary to his multiple sclerosis diagnosis. It was determined that it was no longer appropriate for the Appellant to stay in prison due to his chronic medical issues. In [redacted] of 2023, the Appellant was transferred to a [redacted] Hospital for rehab and ongoing management of his lower extremity weakness related to multiple sclerosis. The Appellant resides on a locked unit and wears a wander guard with documentation stating that he currently wanders. (Testimony, Exhibit 5, pgs. 66-71)

In addition to the multiple sclerosis diagnosis, the Appellant's medical history includes seizures (from [redacted] of 2023, not recurring), pulmonary embolism, hypothyroidism, thoracolumbar scoliosis, muscle spasms, depression, benign prostate hypertrophy, neurogenic bowel, open angle glaucoma and schizophrenia. Other diagnoses include pedophilic disorder, REM sleep disorder with hallucinations, borderline, antisocial, and explosive personality disorders, PTSD (related to reported extensive sexual, physical, and emotional abuse), substance abuse (alcohol, cocaine, and LSD), an abdominal stab wound [redacted] neurosurgery in childhood, osteoarthritis, suicide attempts, and suicidal ideation. (Testimony, Exhibit 5, pgs. 66-71)

MassHealth was represented by a Registered Nurse (RN), the Associate Director of Appeals and Regulatory Compliance for UMass Chan Medical School. The Nurse testified regarding the Residential and Community waiver offered by MassHealth. The Nurse explained that MassHealth offers two home and community-based service (HCBS) Waivers; the MFP Residential Waiver (RS) and the MFP Community Living Waiver (CL). (Testimony, Exhibit 5, Exhibit 6) Both of these waivers aid individuals to move from a nursing home or hospital to an MFP-qualified residence in the community and obtain community-based services. The MFP-RS Waiver, specifically, is for individuals who need supervision and staffing 24 hours/day, 7 days per week. (Testimony, Exhibit 6) The Appellant applied for an MFP-RS Waiver, pursuant to 130 CMR 519.007(H)(1) on April 19, 2024 (Ex. 5, pg. 43).

Within the submission on behalf of UMass, the eligibility criteria for the MFP Waivers may be found. (Ex.5, pgs.6-7) Additionally, the criteria are codified within 130 CMR 519.007(H)(1)(a). The Nurse testified that the criteria include:

- The applicant must be living in a nursing facility or long-stay hospital, and lived there for at least 90 consecutive days;

- The applicant must be 18 years old or older, and have a disability, or be age 65 and older;

- The applicant must meet clinical requirements for, and be in need of the Waiver services that are available through the MFP Waivers;

- The applicant must be able to be safely served in the community within the terms of the MFP Waivers;

- The applicant must meet the financial requirements to qualify for MassHealth with special financial rules existing for Waivers' participants;

- The applicant will transition to an MFP-qualified residence in the community; and

- In addition to the above, to qualify for the MFP-RS Waiver, an applicant must need residential support services with staff supervision 24 hours/day, 7 days/week.

The Nurse testified that on [redacted] 2025, an assessment for MFP-RS Waiver eligibility was conducted in person at the [redacted] Hospital. The Appellant was present along with a social worker as well as a reviewing nurse from MassHealth. (Ex.5, pg. 74). The Nurse testified that the assessment consisted of the completion of MFP documentation including Minimum Data Set-Home Care (MDS-HC) (Ex.5, pgs. 48-61), ABI/MFP Clinical Determination Assessment (Ex. 5, pgs. 62-71), ABI/MFP Waivers Community Risks Assessment (Ex. 5, pgs. 72-73), a review of the Appellant's medical record (Exhibit 5, pgs. 76-233), as well as a discussion with the facility staff. (Testimony)

In the Minimum Data Set – Home Care Report, dated [redacted] 2025, it is indicated that the Appellant requires assistance with multiple Activities of Daily Living (ADLs) and Instrumental (IADLs). Specifically, regarding the ADLs, the Appellant requires aid with Transfers, Bathing, Dressing and Undressing, Toileting, among other ADLs. Regarding the IADLs, the Appellant requires aid with Meal Preparation, Medication Administration, Housework, Shopping, as well as Managing Finances. (Ex. 5, pgs. 48-61)

Within the submission by UMass are various medical records, psychiatric notes, interdisciplinary notes, as well as various notes from the Hospital. (Exhibit 5, pgs. 76-233) In a physician-psychiatry note dated [redacted] 2024, it stated that hospital staff had reported observing evidence that medications had been spit out on the floor of the Appellant's room. Within the note is the psychiatrist's assessment and recommendation, which noted that the Appellant's reports of inclinations to harm himself or others appeared to be "impulsive histrionic and manipulative." (Testimony, Exhibit 5, pg. 97) However, noting the Appellant's previous history of impalement as well as the history of threats against others, the

recommendation stated that the statements of the Appellant must be taken at face value. (Exhibit 5, pg. 97)

In a nursing note, dated [redacted] 2024, it is highlighted that the Appellant had thrown his food tray on the floor, prompting the nurse to follow up with the Appellant. During this attempt to speak to the Appellant, the Appellant swore at staff, and attempts to redirect him were futile. (Testimony, Exhibit 5, pg. 126)

In a team meeting note dated [redacted] 2024, it was memorialized that the Appellant remained at baseline. The recommendation was to continue the antipsychotic injections which the Appellant had been receiving subcutaneously due to medication non-compliance as outlined supra. (Testimony, Exhibit 5, pg. 166)

In a hospital interdisciplinary team note, dated [redacted] 2024, it is highlighted that the Appellant continues to require 24-hour medical services, and highlighted the difficulties in placement for the Appellant, which included the Appellant's sex offender classification as a level 1 offender, the Appellant's substance use disorder, as well as the Appellant's behavior as noted supra. (Testimony, Exhibit 5, pgs. 91-93)

In a psychiatry note, dated [redacted] 2024, the note described a follow up related to a previous incident regarding the Appellant's earlier agitation. The Appellant stated that he had felt disrespected and "seriously considered" harming himself. The Appellant did recognize that this consideration was problematic, and psychiatry staff praised the Appellant for his coping and calming techniques after the initial self-harm thoughts. (Testimony, Exhibit 5, pg. 230)

On [redacted] 2025, a nurse reviewer issued a report based upon the Appellant's medical history (Exhibit 5, pgs. 75-233) as well as an in-person meeting. (Exhibit 5, pgs. 66-74) The report noted that the Appellant periodically refuses medications for extended periods that subsequently affect his treatment. (Exhibit 5, pgs. 66-69, 212-215) The report highlights that the Appellant experiences paraplegia and has no functional active motor strength throughout the right lower extremity and at most has trace right knee extension. The Appellant has not ambulated in 5 years. Additionally, although the Appellant was right-handed, because of recurrent wall punching utilizing his dominant right hand, the Appellant is now functionally transitioning to using his left hand for basic self-care and feeding. (Exhibit 5, pgs. 66-69)

The report continues, noting that the Appellant has a history of multiple suicide attempts and suicidal behavior which include 2 single motor vehicle collisions, a hanging attempt in which the Appellant had to be cut down by correctional officers, overdosing on Tylenol, as well as swallowing razor blades while incarcerated. In [redacted] of 2024, the Appellant had stated that he planned to tie a cord around his neck and was placed on constant observation. Later that same month [redacted] a code gray was called due to the Appellant

becoming agitated. The Appellant told the police that he was agitated and that when he is agitated, he could possibly self-harm. In [redacted] 2024, when the issues of his agitation and suicidal ideation were discussed, the Appellant denied those statements, responding that staff can say anything they want on his chart to misrepresent him and stated that staff often lies. More recently, in [redacted] of 2024, the Appellant reported considering self-harm because he believed a person had disrespected him. (Exhibit 5, pgs. 66-69)

The report indicated that the Appellant has a history of documented violent and threatening behavior. In an [redacted] 2024 therapy note, after the Appellant's phone was taken away, the Appellant has stated that the hospital is forcing him towards his old dysfunctional and prison-like behaviors and wondered if he should begin stabbing behavior so he could return to jail. He was also reported to have said that he hopes to return to prison and reported the Appellant's dislike for the hospital, noting that the staff did not care about him, and he was tired of being treated poorly. In a [redacted] 2024 follow-up conversation, the Appellant reported feelings of anxiety and agitation. Another note, highlighted within this report, included the Appellant being overheard stating that he was ready to explode due to receiving his lunch tray in a delayed manner and getting angry and agitated due to staff not putting his clean laundry in his closet. It was reviewed with him that how he thinks impacts his mood and his day-to-day behavior to which he acknowledged that he tends to resort to his "prison mentality." Multiple nursing notes document him throwing his food tray on the floor. (Exhibit 5, pgs. 66-69)

Continuing within the report, it is noted that when an issue arose with the Appellant's roommate in [redacted] of 2024, the Appellant, again, refused to take his medication. The Appellant stated that he felt that he might be driven by the extremity of the situation into stabbing one or more of his roommates when they are sleeping, citing his experience in prison. In [redacted] of 2024, an additional code gray was sounded when the Appellant became very agitated yelling and screaming at a male peer who he said was calling him names and taunting him about having pedophilic tendencies and being confined to his wheelchair. He went into the male bathroom where the male peer was using the toilet with the intention of fighting with him. He was not physically assaultive but there was a heated verbal exchange noted. The Appellant reported flashbacks of prison when angry or involved in arguments. His psychiatry note stated that he continues to struggle with his own emotional illness, mood swings, paranoia, explosive outbursts, overacting to other's comments, and oppositional behavior in the form of refusing medications. Nursing staff indicated that this pattern of explosive threatening outbursts followed by a desire to apologize after the incident was routine for the Appellant. (Exhibit 5, pgs. 66-69)

The report describes the Appellant's history of substance abuse: specifically with heroin, marijuana, and cocaine. The Appellant reported first using marijuana at the age of [redacted] and continued through adolescence and adulthood. At age [redacted] the Appellant reported using cocaine, LSD, and heroin. (Exhibit 5, pgs. 85-86) The Appellant has no history of substance abuse treatment or overdose. The Appellant reported that he has been sober for [redacted] years and

denied cravings and urges. (Exhibit 5, pgs. 66-69)

The Appellant's sex offender status was recorded, noting that the Appellant had been a level 3 sex offender but this level had been reduced to a level 1. In a psychiatry note dated from [redacted] 2024, it was reported ongoing psychosexual tendencies that included onanistic tendencies which relate to [redacted] In an [redacted] 2024 social services note, it was reported that the Appellant was continuing to [redacted] and at times needed redirection. (Exhibit 5, pg. 205) Within the Report, it is noted that the Appellant is a highly institutionalized sexual predator with a complex combination of predatory character pathology and possible mental illness in addition to medical complexities. The Appellant has served over [redacted] in prison for sexual offenses and other legal issues. The Appellant reported to psychotherapy that he was first incarcerated in [redacted] for [redacted] years, then in [redacted] for [redacted] years both times for indecent assault and battery as well as an incarceration in [redacted] for [redacted] years. Also contained within a social service note, the Appellant has a history of fire setting behaviors and animal cruelty. (Exhibit 5, pgs. 207, 219) The report notes that Appellant's community risks include the risk for elopement, risk for self-harm if agitated, risk for suicidal ideation and attempt, risk for medication non-compliance, risk for relapse to substance abuse, risk for violence and verbal abuse to health care staff, as well as a risk for falls due to progressive MS. (Exhibit 5, pgs. 66-69)

The report concluded that the Appellant has had multiple behavioral incidents since admission. These incidents include incidents of suicidal ideation, medication refusal, agitation and anger, verbal abuse to staff and residents, and threats to residents. The Appellant frequently uses manipulative behavior and displays ongoing psychosexual tendencies. The Appellant was a highly institutionalized sexual predator. The Appellant wears a wander guard and has not been at liberty in the community in [redacted] years. The report notes the Appellant lacks the appropriate coping mechanisms to everyday stress and the Appellant, himself, acknowledges that he tends to resort to his prison mentality. Due to this, the report concludes that the Appellant is a safety risk to himself, and others and a residential setting would not provide the structure and monitoring required to maintain his safety. (Exhibit 5, pgs. 66-69)

On January 30, 2025, The UMass Chan Waiver Complex Clinical Eligibility Team reviewed the Appellant's clinical assessment, community needs, and risks. The summary specifically notes that the Appellant has applied for the MFP-RS waiver. (Exhibit 5, pg. 70) The summary highlights the Appellant's medical history. The Team noted that it is documented that the Appellant has been known to refuse medication and has exhibited a myriad of behavioral issues as outlined within the submission from the nurse reviewer and the Appellant's medical documentation. (Exhibit 5, pgs. 66-69, 76-233). The UMass Waiver Complex Clinical Eligibility team determined that the Appellant lacks the appropriate coping mechanisms, and that the Appellant has acknowledged that he tends to resort to his prison mentality. The UMass Chan Waiver Complex Clinical Team determined that the Appellant is a significant health and safety

risk to himself and others due to the Appellant's institutionalized sexual predatory characteristics, ongoing suicidal and homicidal statements, as well as the Appellant's explosive behaviors, which require a secured structure with intensive monitoring and support. This requires a higher level of support than is available in a residential setting. The UMass Chan Waiver Complex Clinical Eligibility Team concluded that the Appellant cannot be safely served within the terms of the MFP-RS waiver. (Exhibit 5, pg. 70)

On February 5, 2025, the MassAbility Waiver Clinical Eligibility Redetermination Team reviewed the Appellant's clinical assessment, community needs and risks. The report noted that the Appellant presents with multiple risk factors should he return to the community. The report highlights that the Appellant is at risk of elopement due to being previously incarcerated for sexual offenses and other legal issues, the Appellant currently resides in a [redacted] Hospital on a locked unit, the Appellant wears a wander guard, and the Appellant has not been in the community in [redacted] years. The report stated that the Appellant is a risk for self-harm if agitated, as well as a risk for suicidal ideation and suicide attempts due to multiple behavioral incidents at the [redacted] Hospital since admission. The report continues, noting a risk for medication non-compliance, as well as a risk for relapses related to substance abuse. The report additionally highlights a risk for violence and verbal abuse to health care staff and other residents due to threatening, aggressive, manipulative behaviors as noted within the Appellant's clinical record. The report underscores a risk for falls due to progressive MS, and risk for skin breakdown due to immobility as the Appellant requires assistance for ADLS, IADLS and transfers. The report concludes that the Appellant lacks the appropriate coping mechanisms to everyday stress and notes that the Appellant acknowledges that he tends to resort to his prison mentality. The report concluded that the MassAbility Waiver Clinical Eligibility Redetermination Team concurred with the UMass Chan Waiver Complex Eligibility Team's determination that the Appellant should be denied for the MFP-RS waiver, stating that the Appellant is a significant safety risk to himself, and others and a residential setting would not provide the structure and monitoring required to maintain the Appellant's safety. (Exhibit 5, pg. 71)

The Nurse concluded the testimony, noting that the Appellant displays community risks including the risk for elopement, risk for self-harm if agitated, risk for suicidal ideation and attempt, risk for medication non-compliance, risk of relapse of substance abuse, risk of violence and verbal abuse to healthcare staff, and risk of falls and skin breakdown due to progressive multiple sclerosis. (Exhibit 5, pg. 69, Exhibit 6) The Nurse highlighted the January 30, 2025 MassHealth Waiver Clinical Team review meeting as well as the second clinical review conducted by MassAbility. The Nurse stated that it is MassHealth's clinical and professional opinion that the Appellant cannot be safely served in the community within the MFP-RS Waiver. (Testimony, Exhibit 5, Exhibit 6) On February 11, 2025, a denial notice for the MFP-RS Waiver was mailed to the Appellant (Exhibit 5, pgs. 44-45).

The Appellant testified, along with a social worker. (Testimony) The Appellant explained that he had learned how to deal with anger and frustration. (Testimony) The Appellant

explained that when he has an issue, he tries to ignore the voice inside his head and remove himself from the situation. (Testimony) The Appellant explained that he sometimes gets a headache from trying to ignore the voice, but taking Tylenol will usually alleviate the headache. The social worker explained that she has been with the unit for the past six weeks and is not aware of the Appellant's specific history within the hospital but is unaware of any recent problems with the Appellant's behavior. (Testimony)

The Appellant explained an incident that occurred in 2007, in which, during his anger, he injured his left arm. (Testimony) The Appellant explained that his actions in 2007 were not helpful, and that he has not injured himself in that way since. (Testimony) The Appellant explained the group sessions he attends that help him deal with his anger. (Testimony) The Appellant explained how he shares the coping skills he has learned with other patients at the Hospital. (Testimony)

Findings of Fact

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

1. The Appellant is a MassHealth member under the age of 65. (Testimony, Exhibit 4) The Appellant had been incarcerated at a Massachusetts Correctional Institution, and was transferred to a [redacted] Hospital. (Testimony, Exhibit 5, pgs. 66-71)

2. The Appellant's medical history includes a diagnosis of multiple sclerosis in 2000 for which he has been treated. (Testimony, Exhibit 5, pgs. 66-71).

3. The Appellant has been physically declining secondary to his multiple sclerosis diagnosis. It was determined that it was no longer appropriate for the Appellant to stay in prison due to his chronic medical issues. In [redacted] of 2023, the Appellant was transferred to a [redacted] Hospital for rehab and ongoing management of his lower extremity weakness related to multiple sclerosis. The Appellant resides on a locked unit and wears a wander guard with documentation stating that he currently wanders. (Testimony, Exhibit 5, pgs. 66-71)

4. In addition to the multiple sclerosis diagnosis, the Appellant's medical history includes seizures (from [redacted] of 2023, not recurring), pulmonary embolism, hypothyroidism, thoracolumbar scoliosis, muscle spasms, depression, benign prostate hypertrophy, neurogenic bowel, open angle glaucoma, schizophrenia, pedophilic disorder, REM sleep disorder with hallucinations, borderline, antisocial, and explosive personality disorders, PTSD related to reported extensive sexual, physical, and emotional abuse, substance abuse of alcohol, cocaine, and LSD, an abdominal stab wound (incurred at age [redacted], neurosurgery in childhood, osteoarthritis, suicide attempts, and suicidal ideation.

(Testimony, Exhibit 5, pgs. 66-71)

5. On [redacted] 2024, Hospital staff observed evidence that medications had been spit out on the floor of the Appellant's room. The psychiatrist's assessment and recommendation noted that the Appellant's reports of inclinations to harm himself or others appeared to be "impulsive histrionic and manipulative." (Testimony, Exhibit 5, pg. 97). However, noting the Appellant's previous history of impalement as well as the history of threats against others, the psychiatrist recommended that the Appellant's statements must be taken at face value. (Exhibit 5, pg. 97)

6. On [redacted] 2024, the Appellant had thrown his food tray on the floor, prompting the nurse to follow up with the Appellant. During this attempt to speak to the Appellant, the Appellant swore at staff, and attempts to redirect the Appellant were futile. (Testimony, Exhibit 5, pg. 126)

7. During a team meeting note dated [redacted] 2024, it was recommended to continue the antipsychotic injections which the Appellant had been receiving subcutaneously due to medication non-compliance. (Testimony, Exhibit 5, pg. 166)

8. On [redacted] 2024, it was determined that the Appellant continues to require 24-hour medical services. Multiple difficulties in placement for the Appellant exist, which included the Appellant's sex offender classification as a level 1, the Appellant's substance use disorder, as well as the Appellant's behavior. (Testimony, Exhibit 5, pgs. 91-93)

9. On [redacted] 2024, a follow up related to a previous incident regarding the Appellant's agitation occurred. The Appellant stated that he had felt disrespected and "seriously considered" harming himself. He did recognize that this consideration was problematic, and psychiatry staff praised the Appellant for his coping and calming techniques after the initial self-harm thoughts. (Testimony, Exhibit 5, pg. 230)

10. Based on medical record documentation, and interviews with nursing facility staff, MassHealth, MassAbility, and DDS determined that the Appellant presents a significant safety risk to himself and others, concluding that a residential setting would not provide the appropriate structure, monitoring and staffing required to maintain not only the Appellant's safety but the safety of others. MassHealth's clinical and professional opinion concluded that the Appellant cannot be safely served in the community within the MFP-RS Waiver. (Testimony, Exhibit 5, Exhibit 6)

11. On February 11, 2025, a denial notice for the MFP-RS Waiver was mailed to the Appellant (Exhibit 5, pgs. 44-45).

Analysis and Conclusions of Law

The instant appeal is governed by the MassHealth Regulations, specifically 130 CMR 519.007:

> 519.007: Individuals Who Would Be Institutionalized
> 130 CMR 519.007 describes the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home- and community-based services.

The criteria for the MFP Residential Supports Waiver, for which the Appellant has applied, is found within 130 CMR 519.007(H)(1):

> (H) Money Follows the Person Home- and Community-based Services Waivers.
> (1) Money Follows the Person (MFP) Residential Supports Waiver.
> (a) Clinical and Age Requirements. The MFP Residential Supports Waiver, as authorized under § 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age or older, psychiatric hospital services to receive residential support services and other specified waiver services in a 24-hour supervised residential setting if they meet all of the following criteria:
>
> 1. are 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
> 2. are an inpatient in a nursing facility, chronic disease or rehabilitation hospital, or, for participants 18 through 21 years of age or 65 years of age or older, psychiatric hospital with a continuous length of stay of 90 or more days, excluding rehabilitation days;
> 3. must have received MassHealth benefits for inpatient services, and be MassHealth eligible at least the day before discharge;
> 4. must be assessed to need residential habilitation, assisted living services, or shared living 24-hour supports services within the terms of the MFP Residential Supports Waiver;
> 5. are able to be safely served in the community within the terms of the MFP Residential Supports Waiver; and
> 6. are transitioning to the community setting from a facility, moving to a qualified residence, such as a home owned or leased by the applicant or a family member, an apartment with an individual lease, or a community-based residential setting in which no more than four unrelated

individuals reside.

On April 19, 2024, the Appellant applied for Home-and Community-Based Services Waiver for the MFP-Residential Supports Waiver. (Exhibit 5, p. 43) On February 11, 2025, MassHealth denied the Appellant's application for the MFP-Residential Supports Waiver based upon 130 CMR 519.007(H)(1), and the instant appeal followed. (Exhibit 5, pgs. 44-45) The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). Based upon the evidence presented, the Appellant has not met this burden.

The Appellant displays community risks including the risk for elopement, risk for self-harm if agitated, risk for suicidal ideation and attempt, risk for medication non-compliance, risk of relapse of substance abuse, risk of violence and verbal abuse to healthcare staff, and risk of falls and skin breakdown due to progressive multiple sclerosis (Testimony, Exhibit 5, pg. 69)

This record shows that the Appellant has had multiple behavioral incidents since admission to the [redacted] Hospital. These incidents include incidents of suicidal ideation, medication refusal, agitation and anger, verbal abuse to staff and residents, and threats to residents. The Appellant has been observed to frequently use manipulative behavior and display ongoing psychosexual tendencies. The Appellant was a highly institutionalized sexual predator. The Appellant wears a wander guard and has not been at liberty in the community in [redacted] years. Based upon this record, the evidence demonstrated that the Appellant currently lacks the appropriate coping mechanisms to handle everyday stress and the Appellant, himself, has acknowledged his tendency to resort to his prison mentality. (Testimony, Exhibit 5, Exhibit 6)

Although, through the testimony of the Appellant, some new progress in coping has been demonstrated, this is a recent development. While this progress is important, the progress does not negate the recent history (summer and fall of 2024) of aggressive behaviors and threatening language. Based on this record, the Appellant has not met the burden to show, by a preponderance of evidence, that the denial of MFP-RS Waiver was invalid pursuant to 130 CMR 519.007(H)(1). Failing to meet this burden, the appeal is DENIED.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

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

Patrick M. Grogan
Hearing Officer
Board of Hearings

[redacted]

MassHealth Representative: Linda Phillips, UMass Medical School - Commonwealth Medicine, Disability and Community-Based Services, 333 South Street, Shrewsbury, MA 01545-7807