

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2506486
<b>Decision Date:</b>	7/23/2025	<b>Hearing Date:</b>	06/03/2025
<b>Hearing Officer:</b>	Radha Tilva		

**Appearance for Appellant:**  
Pro se

**Appearances for MassHealth:**  
Yadira Ramos, Springfield MEC Rep.  
Eileen Cynamon, DES Representative



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

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Disability – 5 step
<b>Decision Date:</b>	7/23/2025	<b>Hearing Date:</b>	06/03/2025
<b>MassHealth's Reps.:</b>	Yadira Ramos, Eileen Cynamon	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield (telephonic)	<b>Aid Pending:</b>	No

### Authority

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

### Jurisdiction

Through a notice dated March 31, 2025, MassHealth, through Disability Evaluation Services, sent a notice stating appellant was not deemed disabled through federal and state laws (Exhibit 1). The appellant filed this appeal in a timely manner on April 24, 2025, challenging DES' determination that she was not disabled (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

The Board of Hearings dismissed the case on April 25, 2025 because the reason for the appeal was not received (Exhibit 3). The appellant requested the dismissal be vacated on May 2, 2025 stating that she was challenging the disability determination. The Board of Hearings vacated the dismissal and scheduled the hearing for June 3, 2025.

### Action Taken by MassHealth

MassHealth determined that appellant did not meet MassHealth disability requirements.

### Issue

The issue on appeal is whether MassHealth erred in finding that appellant is not permanently and totally disabled, pursuant to 130 CMR 505.002(F).

## Summary of Evidence

A MassHealth eligibility representative appeared at the hearing and testified that appellant submitted proof of income on January 9, 2025 to satisfy a request for information which was issued on November 14, 2024. The proof of income was processed on January 16, 2025. The appellant was previously on MassHealth CarePlus, however, this terminated on February 28, 2025. The appellant's income was \$5,199.60 gross per month with a federal poverty level of 409.3%, putting her over the limit for MassHealth benefits. The appellant applied to be deemed disabled through DES and was denied, and thus appellant was not eligible for MassHealth CommonHealth benefits. The appellant appealed MassHealth's disability determination to the Board of Hearings on April 24, 2025.

The disability specialist testified that she is a registered nurse (RN) and an Appeals Reviewer for Disability Evaluation Services (DES), the unit that makes disability determinations on behalf of MassHealth. The disability reviewer explained the role of DES as one to determine if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. She described that they use a 5-step process, as described by SSA regulations at Title 20 Code of Federal Regulations (CFR) Ch. III subsection (§) 416.920 to determine disability status (Exhibit 6, pp. 12-14). The process is driven by the applicant's medical records and disability supplement. SSA CFR §416.905 states 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. (Exhibit 6, p. 8) 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 (*Id.*).

Per SSA CFR §416.945 what a person can still do despite an impairment is called his or her residual functional capacity (RFC) (Exhibit 6, pp. 17-18). Unless an impairment is so severe that it is deemed to prevent you from doing substantial gainful activity, it is this residual functional capacity that is used to determine whether you can still do your past work or, in conjunction with your age, education and work experience, any other work.

The appellant is a [REDACTED] [REDACTED] who initially submitted a MassHealth Adult Disability Supplement to DES on January 14, 2025, with incomplete medical release forms determined necessary to open the disability review episode. DES returned to the client via mail both her disability supplement, and a Dear Client Return Letter (DCL) detailing the corrective action(s) needed to process the disability evaluation with the necessary blank forms to be completed and a postage paid return envelope. (Exhibit 6, p. 47). Once DES confirmed receipt of a complete

Supplement with valid medical releases, the disability review process proceeded. The appellant listed the following health problems on her supplement: Post Traumatic Stress Disorder (PTSD), anxiety, chronic pain in both upper and lower back with right side radiculopathy, kidney complaints with history of urine infection, hematuria, kidney stones related to traumatic injury in 2012 (Exhibit 6, pp. 66-68). DES requested and obtained current provider documentation using the medical releases provided (Exhibit 6, pp. 37-46). Once the medical documentation was received at DES, the 5-step review process was initiated:

The DES representative testified that DES performs the following 5-step review in determining disability, which is the same test implemented by social security:

- Step 1: Is the applicant engaged in substantial gainful employment? (This step is waived for MassHealth purposes.)
- Step 2: Is the applicant's impairment severe and expected to result in death or last for a continuous period of not less than 12 months?
- Step 3: If so, does the impairment meet or equal a criteria listing?
- Step 4: If not, what is the applicant's residual functional capacity (RFC)? Can applicant perform prior work?
- Step 5: If not, is the applicant able to perform any other work that is available in the national economy?

DES testified that Step 1 is waived by MassHealth regardless of the claimant engaging in substantial gainful activity, while on the federal level engaging in activity tops the disability review in its entirety. Under Step 2, DES reviewed the medical information obtained from [REDACTED] (Exhibit 6, pp. 101-129), [REDACTED] (Exhibit 6, pp. 129-138), and records from [REDACTED] emergency room (Exhibit 6, pp. 138-158). The provider information was sufficient to establish that the appellant's medical/physical impairment was severe and expected to last for not less than 12 months. The representative explained that although the provider documentation was sufficient to evaluate the appellant's medical/physical complaints, both the disability reviewer and the Program Manager concurred there continued to be insufficient mental health documentation to complete the disability evaluations. A Psychiatric Consultative Examination (CE) was ordered to ensure sufficient clinical documentation was obtained before proceeding to Step 3. Appellant attended a zoom telehealth visit on [REDACTED] 2025, with [REDACTED] MSW (Exhibit 6, pp. 86-89). Once sufficient objective clinical documentation was obtained to fully address all the appellant's complaints, the disability review proceeded to Step 3.

At Step 3, DES evaluated appellant's impairments and compared them to the Social Security Administration listings found in the Listing of Impairments Ch. III, Pt. 404, Subpt P., App. 1 to see if

appellant met such criteria. If an individual is found to meet a listing, DES would automatically render a finding of disability. The disability reviewer testified that Step 3 was marked, “No” by the original DES reviewer, citing the appropriate adult SSA listing considered: 1.15 – Disorders of the Skeletal Spine resulting in compromise of a Nerve Root(s), 6.05 - Chronic Kidney Disease with Impairment of Kidney Function, 11.14 – Peripheral Neuropathy, 12.06 – Anxiety and Obsessive-Compulsive Disorders. and 12.15 - Trauma- and Stressor-Related Disorders (Exhibit 6, pp. 75-85, see CFR 416.925 pp. 18-19). SSI listing 5.06 - Inflammatory Bowel Disease was also included in the appeal packet for appeal purposes in regard to medical records noting abdominal complaints and constipation.

Under Listing 1.15 – Disorders of the Skeletal Spine resulting in comprise of a Nerve Root, it was explained at hearing, by the DES representative, that the appellant didn’t meet that listing because a recent examination showed she had normal gait and function, her cranial nerves and sensory nerves were intact, her deep tendons were intact, and she had no tremors. Thus, she didn’t meet A, B, C, or D under the listings. The appellant testified that she was not provided adequate time to review these requirements and that MassHealth did not review the complete medical record in making its determination. None of the other listings were discussed in detail at the hearing and appellant did not offer any specific testimony regarding the listings.

The DES representative explained that for the rest of the review, Steps 4 & 5, both a Residual Functional Capacity (RFC) assessment along with a vocational assessment are determined. The RFC is the most an applicant can still do despite limitations. An applicant’s RFC is based on all relevant evidence in the case record (see CFR §416.945 (Exhibit 6, pp. 20-22), CFR §416.920a (pp. 12-14) and CFR 416.967 (p. 27)). A physical RFC, completed by Dr. Hasenfield on March 28, 2025, indicates the appellant is capable of performing the full range of medium work with consideration of postural limitation for never climbing (ladders, scaffolding, etc.), and environmental limitation to hazards (machinery, heights, etc.), (Exhibit 6, pp. 90-92). A mental RFC, completed by [REDACTED] on [REDACTED] 2025, indicates that appellant is capable of performing basic, unskilled work activity when considering moderate limitations in her ability to maintain attention and concentration to sustain employment and ability to work at a consistent pace, as well as work in proximity to others without being distracted (Exhibit 6, pp. 93-94). The DR completed a vocational assessment (Exhibit 6, p. 72), using the educational and limited work information reported on the appellant’s supplement (Exhibit 6, pp. 68-69) and the physical and mental RFCs (CFR 416.960, Exhibit 6, pp. 23-24). The 5-step review process continued to Step 4.

Step 4 asks if the claimant can perform any past relevant work. The appellant wrote that she was currently employed, but did not include details of her current or past work history in the supplement (Exhibit 6, p. 68). The appellant also noted that she had a bachelor’s degree with a major in Criminal Justice (*Id.*). The appellant wrote in her supplement, under Part 8, that she is not unable to work, but she struggles on days where her injury is acting up (Exhibit 6, p. 69). The MassHealth representative explained that the appellant’s past relevant work would not impact the final outcome of the disability determination thus Step 4 was deferred and the review proceeded to Step 5.

At Step 5, DES asks “does the claimant have the ability to make an adjustment to any other work, considering the claimant’s RFCs, age, education, and work experience?” (Exhibit 6, p. 74). The reviewer selected “Yes” citing three unskilled jobs available within both the regional and national economy (CFR §416.966, CFR 416.967, CFR §416.968, 416.969a, pages 25-33). The DR referenced the Occupational Employment Quarterly (OEQ) and quoted three jobs: 4030 Food Preparation Workers, 9350 Parking Lot Attendants, 9610 Cleaners of Vehicles & Equipment. Additionally, the reviewer selected alternate jobs such as dishwasher, housekeeping, and landscaping. The disability reviewer determined appellant is ‘Not Disabled’ using decision Code 231 (Exhibit 6, p. 74). The 5-step evaluation process concluded with a final review and endorsement of the disability decision by Physician Advisors (PAs) [REDACTED] both on March [REDACTED] 2025 (Exhibit 6, p. 71, 98). DES mailed a Disability Determination denial letter to the client dated March 31, 2025 and transmitted the decision to MassHealth on May 1, 2025 (Exhibit 6, p. 56).

The MassHealth representative explained that appellant does not meet or equal the high threshold of adult SSA disability listings. Appellant’s RFC indicates that she is capable of performing work activity in the competitive labor market. Moreover, there are a sizable number of jobs which MassHealth feels the appellant can perform based on her physical and mental capabilities and her vocational qualifications.

The MassHealth representative also testified that there were additional records received from the client on [REDACTED] 2025 which consisted of a telehealth visit on [REDACTED] 2025 with [REDACTED] (see Exhibit 8). The MassHealth representative testified that the complaints and history presented were consistent with information previously submitted for review by the provider and that the additional information does not alter the disability determination at this time. The note reflects that appellant has no complaints of musculoskeletal pain (including back pain) and has no significant pain or hematuria (Exhibit 8).

The appellant appeared by telephone and testified that she was physically assaulted while working as a [REDACTED]. The injury resulted in a punctured kidney and eventually an abscess (appellant testimony). She was no longer able to work in the capacity as a [REDACTED]. She has back and neck issues, 3 bulging discs, and has kidney stones from the injury. The appellant stated that she is in extreme pain when she has to pass a kidney stone. The appellant is presently working as a [REDACTED] and stated that she thought that she could work and still be deemed disabled. The appellant is presently on a plan through the Health Connector, but complains that she is no longer able to see her specialists.

The appellant testified that she went through 4 years of college and 2 years of the [REDACTED]. She cannot be a dishwasher or landscaper as she has back issues and if she is on her feet for too long she will have blood in her urine (appellant testimony). The appellant testified that she disagrees with how this process was done and does not understand why MassHealth only looks at her condition in the last 12 months.

## Findings of Fact

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

1. Appellant submitted proof of income on January 9, 2025 which put her over the income limit for her MassHealth CarePlus benefits which terminated on February 28, 2025.
  - a. The appellant's income was \$5,199.60 gross with a federal poverty level of 409.3% which put her over the limit for MassHealth benefits.
2. The appellant applied to be deemed disabled through DES so that she could obtain MassHealth CommonHealth eligibility, however, this was denied on March 31, 2025.
  - a. Appellant appealed MassHealth's disability determination to the Board of Hearings on April 24, 2025.
3. The appellant is enrolled in a plan through the Health Connector.
4. The appellant is a [REDACTED] who initially submitted a MassHealth Adult Disability Supplement to DES on January 14, 2025.
5. The appellant listed as her diagnoses: Post Traumatic Stress Disorder (PTSD), anxiety, chronic pain in both upper and lower back with right side radiculopathy, kidney complaints with history of urine infection, hematuria, and kidney stones.
6. DES performs the following 5-step review in determining disability, which is the same test implemented by social security.
7. Step 1 is waived for MassHealth purposes and asks is the applicant engaged in substantial gainful employment?
8. Step 2 asks is the applicant's impairment severe and expected to result in death or last for a continuous period of not less than 12 months?
  - a. Under Step 2, DES reviewed the medical information obtained and determined that appellant's impairment was severe and expected to last for not less than 12 months.
9. At Step 3, DES evaluated appellant's impairments and compared SSA Listing(s) 1.15 – Disorders of the Skeletal Spine resulting in compromise of a Nerve Root(s), 6.05 - Chronic Kidney Disease with Impairment of Kidney Function, 11.14 – Peripheral Neuropathy, 12.06 – Anxiety and Obsessive-Compulsive Disorders. and 12.15 - Trauma- and Stressor-Related

Disorders, and 5.06 - Inflammatory Bowel Disease and determined that she did not meet any of the Listings.

10. A physical RFC, completed by [REDACTED] on [REDACTED] 2025, indicates the client is capable of performing the full range of medium work with consideration of postural limitation for never climbing (ladders, scaffolding, etc.), and environmental limitation to hazards (machinery, heights, etc.).
11. A mental RFC, completed by [REDACTED] on [REDACTED] 2025, indicates that appellant is capable of performing basic, unskilled work activity when considering moderate limitations in her ability to maintain attention and concentration to sustain employment and ability to work at a consistent pace, as well as work in proximity to others without being distracted.
12. Step 4 asks what is the applicant's residual functional capacity (RFC) and can the applicant perform prior work?
  - a. DES could not make this determination of whether past work could be performed and the review proceeded to Step 5.
13. Step 5 asks if the applicant is able to perform any other work that is available in the national economy?
  - a. The reviewer determined that appellant is able to work as a food preparation worker, parking lot attendant, cleaner of vehicles & equipment, dishwasher, housekeeping, and landscaping.
  - b. The appellant presently works as a [REDACTED]
14. The appellant previously worked as a [REDACTED] but is no longer able to.
15. The appellant has a bachelor's degree and completed two years of [REDACTED]  
[REDACTED]

## Analysis and Conclusions of Law

In order to be found disabled for MassHealth, an individual must be permanently and totally disabled (See 130 CMR 501.001). The guidelines used in establishing disability under this program are the same as those used by the Social Security Administration (Id).



Individuals who meet the Social Security Administration's definition of disability may establish eligibility for MassHealth Standard according to 130 CMR 505.002(F). In Title XVI, Section 416.405, the Social Security Administration defines disability as:

the inability to engage in any substantial gainful activity by reason of any medical 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.

Title XVI of the Social Security Act establishes standards and the five-step sequential evaluation process for the Medical Assistance Program. If a determination of disability can be made at any step, the evaluation process stops at that point. Step 1 considers whether the individual is substantially gainfully employed. This step is waived in MassHealth cases. Thus, the review proceeds to Step 2.

Step 2 determines whether the individual has a severe impairment. To be determined severe, a medically determinable physical or mental impairment must "be expected to result in death or have lasted or be expected to last for a continuous period of not less than 12 months." See Exhibit 8, p. 7.

In this case, the appellant was reviewed for disability due to disorders of the skeletal spine, chronic kidney disease, peripheral neuropathy, anxiety and obsessive-compulsive disorders, inflammatory bowel disease, and trauma and stressor related disorders. DES determined that appellant's impairment was severe and has lasted, or was expected to last, 12 months. Accordingly, appellant's impairments met Step 2 and the review process proceeded to Step 3.

Step 3 requires the reviewer to determine whether the impairment(s) meet certain criteria found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App. 1. DES reviewed the appellant's case considering listing(s) 1.15 – Disorders of the Skeletal Spine resulting in compromise of a Nerve Root(s), 6.05 - Chronic Kidney Disease with Impairment of Kidney Function, 11.14 – Peripheral Neuropathy, 12.06 – Anxiety and Obsessive-Compulsive Disorders, 12.15 - Trauma- and Stressor-Related Disorders, and 5.06 - Inflammatory Bowel Disease. Based on review of the medical records obtained, DES determined that appellant does not meet any of these listings which have specific requirements for each. At hearing, the appellant did not offer any convincing testimony to demonstrate that she met any of the listings.

DES did not determine whether appellant meets Step 4 in this case as there was insufficient information to determine appellant's capacity to perform past relevant work. Under Step 5, DES determined that appellant's residual functional capacity is that she is capable of performing unskilled work such as food preparation worker, parking lot attendant, cleaner of vehicles, dishwasher, housekeeping, and landscaping. The appellant disputed that she could perform these jobs and explained that she has back pain. The appellant is, however, capable of performing other work in the national economy as evidenced by her testimony that she is

presently working a [REDACTED] Thus, appellant meets Step 5. For these reasons, DES did not err in determining that appellant is not disabled.

This appeal is DENIED.

## **Order for MassHealth**

None.

## **Notification of Your Right to Appeal to Court**

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

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Radha Tilva  
Hearing Officer  
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104