

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2506984
Decision Date:	7/30/2025	Hearing Date:	06/04/2025
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Eileen Cynammon, RN (DES) and Ryan Bond
(MEC)



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

APPEAL DECISION

Appeal Decision:	DENIED	Issue:	Disability Determination
Decision Date:	7/30/2025	Hearing Date:	06/04/2025
MassHealth's Rep.:	Eileen Cynammon	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MEC	Aid Pending:	Yes

Authority

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

Jurisdiction

Through notice dated April 22, 2025, MassHealth determined that Appellant is not disabled for the purposes of establishing eligibility for MassHealth (see 130 CMR 505.004(H) and Exhibit A). Appellant filed this appeal in a timely manner on May 2, 2025 (see 130 CMR 610.015(B) and Exhibit A). A negative disability determination and denial of assistance are valid grounds for appeal (see 130 CMR 610.032).

Action by MassHealth

MassHealth determined that Appellant is not disabled for MassHealth eligibility purposes.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it determined that Appellant is not disabled for MassHealth eligibility purposes.

Summary of Evidence

The hearing was conducted virtually by video. Prior to hearing, MassHealth submitted a packet of documentation including, inter alia, a copy of the Appellant's Disability Supplement and his clinical records (collectively, Exhibit B).

MassHealth was represented by a Registered Nurse (RN) and an Appeals Reviewer for Disability Evaluation Services (DES) who explained that DES determines, for MassHealth, if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES uses a 5-step process, as described by SSA regulations at Title 20 Code of Federal Regulations (CFR) Ch. III section 416.920 (Exhibit B, page 9-11) to determine disability status. The process is driven by the applicant's medical records and disability supplement. CFR §416.905 (Exhibit B, page 8) 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. To meet this definition, an applicant must have a severe impairment(s) that makes the applicant unable to do past relevant work or any other substantial gainful work that exists in the regional economy.

Per SSA CFR §416.945 (Exhibit B, page 20-22) what a person can still do despite an impairment is called his or her residual functional capacity (RFC). Unless an impairment is so severe that it is deemed to prevent the applicant from doing substantial gainful activity, it is this residual functional capacity that is used to determine whether the applicant can still do his/her past work or, in conjunction with his/her age, education and work experience.

Appellant is a [REDACTED] male who was previously administratively approved for MassHealth Adult Disability (September 2021) in response to the Covid Public Health Emergency (PHE) and consistent with the federal continuous coverage requirements and MassHealth coverage protections which were in effect (no member could be denied/ disenrolled during this period). Upon conclusion of the federal continuous coverage requirements (end of PHE), MassHealth returned to the standard annual eligibility renewal processes on April 1, 2023 requiring that all current MassHealth members are reassessed to ensure they still qualify for their current benefits (Exhibit B, page 32).

After the PHE was lifted, Appellant submitted a disability supplement and underwent a disability determination in October-November 2023 which concluded with a finding of not disabled (clinical ineligible at Title XVI level). Most recently, Appellant submitted a complete MassHealth Adult Disability Supplement to DES on February 13, 2025, and a new disability episode was opened. Appellant listed the following health problems on his Supplement and in an attached February 5, 2025 letter (Exhibit B, page 70): Cerebral Palsy (CP) with left sided muscle tightness especially in the left leg and decreased dexterity in hands, chronic back pain associated with leg length discrepancy which impacts both gait and balance, Attention Deficit

Hyperactivity Disorder (ADHD), anxiety, depression, and history of very preterm birth (Exhibit B, pages 64-65). DES requested and obtained current provider documentation using the medical releases Appellant provided (Exhibit B, pages 36-49); records were not requested from providers reported by Appellant as not having provided treatment within the previous 12 months (Exhibit B, pages 50-53, 64, 67). Once the medical documentation was received at DES, the 5-step review process was initiated:

Step 1 asks “Is the claimant engaging in substantial gainful activity (SGA)?” For Appellant’s review, Step 1 was marked, “Yes” (Exhibit B, page 77), per his Supplement indicated he was employed as a [REDACTED] (Exhibit B, page 67). At the federal level, engaging in SGA would stop the disability review in its entirety (with a determination of not disabled), but this step is waived by MassHealth.

Step 2 asks “Does the claimant have a medically determinable impairment (MDI) or combination of MDIs (CFR §416.923, page 17) that is both severe and meets the duration requirement (impairment(s) is expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months).” DES requested and obtained medical documentation using the medical releases provided. Information was received from [REDACTED]

[REDACTED] (Exhibit B, pages 101-113),

[REDACTED] (Exhibit B, pages 139-171) and from [REDACTED]

[REDACTED] (Exhibit B, pages 172-185). No RFI

response to information was received from either [REDACTED]

[REDACTED] The provider information received was sufficient to establish that Appellant’s MDIs met the severity and duration requirements for Step 2 (Exhibit B, page 77). At Step 2 the disability reviewer (DR) selected, “Yes.”

Although the provider documentation was sufficient to evaluate Appellant’s medical/ physical complaints, both the DR and their Program Manager concurred that there was insufficient mental health documentation to complete the disability evaluation. A Psychiatric Consultative Examination (CE) was ordered to ensure sufficient clinical documentation was obtained before proceeding to Step 3. A CE scheduling staff member coordinated with Appellant, via telephone and mail, to schedule a CE appointment (scheduling letters on page 34-35 and Progress Notes on page 58-59). Appellant attended the Zoom telehealth CE as scheduled on March 28, 2025, at 9:00 a.m. with [REDACTED] (Exhibit B, pages 71-74). Once sufficient objective clinical documentation was obtained to fully address all Appellant’s complaints the DR proceeded to Step 3.

Step 3 asks “Does the claimant have an impairment(s) that meets an adult SSA listing, or is medically equal to a listing, and meets the listing level duration requirement?” When a specific impairment or diagnosis does not have its own listing under the SSI criteria, the evaluation will consider the listing that most closely matches the impairment, or the findings related to the

impairment(s) will be evaluated to confirm they are at least of equal medical significance to those of a listed impairment. Step 3 was marked, “No” by the reviewer (Exhibit B, page 77) citing the applicable adult SSA listings considered: 1.15 – Disorders of the Skeletal Spine resulting in compromise of a Nerve Root(s), 1.18 – Abnormality of a Major Joint(s) in any Extremity, 11.07 – Cerebral Palsy, 12.04 – Depressive, Bipolar and related Disorders, 12.06 – Anxiety and Obsessive-Compulsive Disorders. and 12.11 – Neurodevelopmental Disorders (Exhibit B, pages 79-88, see CFR 416.925 pages 18-19).

At Steps 4 & 5, both a Residual Functional Capacity (RFC) assessment and a vocational assessment were used. The RFC is the most an applicant can still do despite his/her limitations. An applicant’s RFC is based on all relevant evidence in the case record, see CFR §416.945 (Exhibit B, page 20-22), CFR §416.920a (Exhibit B, pages 12-14) and CFR 416.967 (Exhibit B, page 27). A Physical RFC, completed by [REDACTED] on April 15, 2025, indicates Appellant is capable of performing the full range of Light work with consideration of postural limitation for occasional climbing (ladders, scaffolding, etc.) and crawling, with environmental limitation to hazards (machinery, heights, etc.), (Exhibit B, pages 88-90). A Mental RFC, completed by [REDACTED] on April 14, 2025, indicates Appellant is capable of performing basic, unskilled work activity when considering moderate limitations in his ability to work at a consistent pace (Exhibit B, pages 92-93). The DR completed a vocational assessment (Exhibit B, page 76), using the educational and work history reported on Appellant’s supplement (Exhibit B, pages 66-68) and the Physical and Mental RFCs (CFR 416.960, pages 23-24). The review process continued to Step 4.

Step 4 (Exhibit B, page 78) asks, “Does the claimant retain the capacity to perform any past relevant work (PRW)?” Since May, 2021, Appellant has been employed as a [REDACTED] full-time (+SGA) and describes his work on his supplement as Light-Heavy (reports heaviest weight lifted 100 lbs.). The Dictionary of Occupational Titles (DOT) describes similar types of work as Light, Skilled work (Exhibit B, pages 94 - DOT code 022.261-010 Chemical Laboratory Technician, page 95 - DOT code 559.361-010 Laboratory Technician, Pharmaceutical). Appellant’s current/past work exceeds his current mental RFC capabilities (basic, unskilled work). The DR selected “No” and the review continued to Step 5.

Step 5 (Exhibit B, page 78) 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?” The DR 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 25-31). The DR referenced the Occupational Employment Quarterly (OEQ) and quoted three jobs: 4140 Dishwashers, 8740 Inspectors, Testers, Sorters, Samplers & Weighers, 9640 Packagers & Packagers, Hand (descriptions on pages 96-97 are incorrect – please refer to the Appeals Exhibit D- Amendment 6/4/2025). Additionally, the DES representative selected alternate jobs which are also applicable: 4420 Ushers, Lobby Attendants & Ticket Takers, 5320 Library Assistants, Clerical, and 5400 Receptionists & Information Clerks. The DR determined Appellant is ‘Not Disabled’ using decision Code 231 (Exhibit B, page 78). The 5-step evaluation process concluded

on April 16, 2025 with a final review and endorsement of the disability decision by [REDACTED] (Exhibit B, page 75, 98). DES mailed a Disability Determination denial letter to Appellant dated April 16, 2025 (Exhibit B, page 99) and transmitted the decision to MassHealth on April 17, 2025 (Exhibit B, page 56).

The DES representative summarized that Appellant does not meet or equal the high threshold of adult SSA disability listings. Additionally, Appellant's RFCs indicate he is capable of performing work activity in the competitive labor market. Finally, there are, within the regional/national economy, a sizable number of jobs (in one or more occupations) having requirements which Appellant can perform based on his physical and mental capabilities and his vocational qualifications. Therefore, the Appeal Review concludes Appellant is not clinically eligible for Title XVI level benefits and Appellant was correctly determined 'Not Disabled.'

Lastly, The DES representative addressed additional documentation provided by Appellant for the appeal (Exhibit C). The DES representative testified that this information was reviewed prior to hearing and only one document, dated August 22, 2024 from [REDACTED] was considered as it was the only document concerning treatment within one year of the Disability Supplement being filed (Exhibit C). The DES representative testified that the information in this document did not alter the findings relative to the listings or the RFC's; therefore, it did not alter the ultimate determination that Appellant is currently not totally and permanently disabled for MassHealth eligibility purposes.

Appellant appeared on his own behalf accompanied by his parents. There was a discussion with the MassHealth representative from the enrollment center about Appellant's countable income which was currently verified to be 274% of the federal poverty level for a household of one (gross bi-weekly pay of \$1,910.00).

On the matter of his disability and ability to work, Appellant testified that while he is able to work, because of his health conditions, he has to work twice as long and three times as hard as his peers to do the same amount of work.

Appellant's father testified that Appellant needs his health care coverage in order to continue the treatment he receives that enable him to remain functional and able to work. Appellant's father asserted that without continued medical care and treatment, Appellant would not be able to hold a job.

Appellant's mother testified that Appellant works very hard and very long hours to maintain his employment. She opined that "the system" is broken if it does not allow people to maintain the health care coverage that enables them to function in order to maintain their job. Appellant's mother also explained how difficult it is for Appellant to find a plan that will cover all of his providers and then having to wait months to see a new primary care physician in order to get referrals to available specialists.

Findings of Fact

By a preponderance of the evidence, this record supports the following findings:

1. Appellant is a [REDACTED] male who was previously administratively approved for MassHealth Adult Disability (September 2021) in response to the Covid Public Health Emergency (PHE) and consistent with the federal continuous coverage requirements and MassHealth coverage protections which were in effect (no member could be denied/disenrolled during this period).
2. Upon conclusion of the federal continuous coverage requirements (end of PHE) MassHealth returned to the standard annual eligibility renewal processes on April 1, 2023 requiring that all current MassHealth members are reassessed to ensure they still qualify for their current benefits (Exhibit B, page 32).
3. After the PHE was lifted, Appellant submitted a disability supplement and underwent a disability determination in October-November 2023 which concluded with a finding of not disabled (clinical ineligible at Title XVI level).
4. Most recently, Appellant submitted a complete MassHealth Adult Disability Supplement to DES on February 13, 2025, and a new disability episode was opened.
5. Appellant listed the following health problems on his Supplement and in an attached February 5, 2025 letter (Exhibit B, page 70): Cerebral Palsy (CP) with left sided muscle tightness especially in the left leg and decreased dexterity in hands, chronic back pain associated with leg length discrepancy which impacts both gait and balance, Attention Deficit Hyperactivity Disorder (ADHD), anxiety, depression, and history of very preterm birth (Exhibit B, pages 64-65).
6. DES requested and obtained current provider documentation using the medical releases Appellant provided (Exhibit B, pages 36-49);
7. Records were not requested from providers reported by Appellant as not having provided treatment within the previous 12 months (Exhibit B, pages 50-53, 64, 67).
8. MassHealth applied the five-step sequential evaluation process established by Title XVI of the Social Security Act for the purpose of determining eligibility for Medical Assistance.
9. **Step 1** asks “Is the claimant engaging in substantial gainful activity (SGA)?” For Appellant’s review, Step 1 was marked, “Yes” (Exhibit B, page 77), per his Supplement indicated he was employed as a [REDACTED] (Exhibit B, page 67).

10. At the federal level, engaging in SGA would stop the disability review in its entirety (with a determination of not disabled), but this step is waived by MassHealth.
11. **Step 2** asks “Does the claimant have a medically determinable impairment (MDI) or combination of MDIs (CFR §416.923, page 17) that is both severe and meets the duration requirement (impairment(s) is expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months).”
12. DES requested and obtained medical documentation using the medical releases provided. Information was received from [REDACTED] (Exhibit B, pages 101-113), [REDACTED] (Exhibit B, pages 114-138), [REDACTED] (Exhibit B, pages 139-171) and from [REDACTED] (Exhibit B, pages 172-185). No RFI response to information was received from either [REDACTED] [REDACTED]
13. DES determined that the provider information received was sufficient to establish that Appellant’s conditions met the severity and duration requirements for Step 2 (Exhibit B, page 77). At Step 2 the disability reviewer (DR) selected, “Yes.”
14. Although the provider documentation was sufficient to evaluate Appellant’s medical/physical complaints, both the DR and their Program Manager concurred that there was insufficient mental health documentation to complete the disability evaluation.
15. A Psychiatric Consultative Examination (CE) was ordered to ensure sufficient clinical documentation was obtained before proceeding to Step 3.
16. A CE scheduling staff member coordinated with Appellant, via telephone and mail, to schedule a CE appointment (scheduling letters on page 34-35 and Progress Notes on page 58-59). Appellant attended the Zoom telehealth CE as scheduled on March 28, 2025, at 9:00 a.m. with [REDACTED] [REDACTED] (Exhibit B, pages 71-74).
17. Once sufficient objective clinical documentation was obtained to fully address all Appellant’s complaints, the DR proceeded to Step 3.
18. **Step 3** asks “Does the claimant have an impairment(s) that meets an adult SSA listing, or is medically equal to a listing, and meets the listing level duration requirement?”

19. When a specific impairment or diagnosis does not have its own listing under the SSI criteria, DES considers the listing that most closely matches the impairment, or the findings related to the impairment(s) will be evaluated to confirm they are at least of equal medical significance to those of a listed impairment.
20. Step 3 was marked, “No” by the reviewer (Exhibit B, page 77) citing the applicable adult SSA listings considered: 1.15 – Disorders of the Skeletal Spine resulting in compromise of a Nerve Root(s), 1.18 – Abnormality of a Major Joint(s) in any Extremity, 11.07 – Cerebral Palsy, 12.04 – Depressive, Bipolar and related Disorders, 12.06 – Anxiety and Obsessive-Compulsive Disorders. and 12.11 – Neurodevelopmental Disorders (Exhibit B, pages 79-88, see CFR 416.925 pages 18-19).
21. At Steps 4 & 5, both a Residual Functional Capacity (RFC) assessment and a vocational assessment were used.
22. The RFC is the most an applicant can still do despite his/her limitations and is based on all relevant evidence in the case record, see CFR §416.945 (Exhibit B, page 20-22), CFR §416.920a (Exhibit B, pages 12-14) and CFR 416.967 (Exhibit B, page 27).
23. A Physical RFC, completed by [REDACTED] on April 15, 2025, indicates Appellant is capable of performing the full range of Light work with consideration of postural limitation for occasional climbing (ladders, scaffolding, etc.) and crawling, with environmental limitation to hazards (machinery, heights, etc.), (Exhibit B, pages 88-90).
24. A Mental RFC, completed by [REDACTED] on April 14, 2025, indicates Appellant is capable of performing basic, unskilled work activity when considering moderate limitations in his ability to work at a consistent pace (Exhibit B, pages 92-93).
25. The DR completed a vocational assessment (Exhibit B, page 76), using the educational and work history reported on Appellant’s supplement (Exhibit B, pages 66-68) and the Physical and Mental RFCs (CFR 416.960, pages 23-24).
26. **Step 4** (Exhibit B, page 78) asks, “Does the claimant retain the capacity to perform any past relevant work (PRW)?”
27. Since May, 2021, Appellant has been employed as a [REDACTED] full-time (+SGA) and describes his work on his supplement as Light-Heavy (reports heaviest weight lifted 100 lbs.). The Dictionary of Occupational Titles (DOT) describes similar types of work as Light, Skilled work (Exhibit B, pages 94 - DOT code 022.261-010 Chemical Laboratory Technician, page 95 - DOT code 559.361-010 Laboratory Technician, Pharmaceutical).

28. Appellant's current/past work exceeds his current mental RFC capabilities (basic, unskilled work); The DR selected "No" at Step 4 and the review continued to Step 5.
29. **Step 5** (Exhibit B, page 78) 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?"
30. At Step 5, the DR 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 25-31). The DR referenced the Occupational Employment Quarterly (OEQ) and quoted three jobs: 4140 Dishwashers, 8740 Inspectors, Testers, Sorters, Samplers & Weighers, 9640 Packagers & Packagers, Hand (descriptions on pages 96-97 are incorrect – please refer to the Appeals Exhibit D- Amendment 6/4/2025).
31. Jobs which are also applicable: 4420 Ushers, Lobby Attendants & Ticket Takers, 5320 Library Assistants, Clerical, and 5400 Receptionists & Information Clerks.
32. DES determined Appellant is 'Not Disabled' using decision Code 231 (Exhibit B, page 78).
33. DES concluded the 5-step evaluation process on April 16, 2025 with a final review and endorsement of the disability decision by [REDACTED] (Exhibit B, page 75, 98).
34. DES mailed a Disability Determination denial letter to Appellant dated April 16, 2025 (Exhibit B, page 99) and transmitted the decision to MassHealth on April 17, 2025 (Exhibit B, page 56).
35. DES reviewed additional documentation provided by Appellant for the appeal (Exhibit C) and only one document, dated August 22, 2024 from [REDACTED] was considered as it was the only document concerning treatment within one year of the Disability Supplement being filed (Exhibit C).
36. The information in this document did not alter the findings relative to the listings or the RFC's; therefore, it did not alter the ultimate determination that Appellant is currently not totally and permanently disabled for MassHealth eligibility purposes.

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)). On this record, Appellant has failed to meet his burden.

In order to be found disabled under the Medical Assistance Program, 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 (see 130 CMR 501.001).

Individuals who meet the Social Security Administration's definition of disability may establish eligibility for Medical Assistance according to 130 CMR 501.001. 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 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.*

Title XVI of the Social Security Act establishes the eligibility 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.

This record shows that MassHealth has accurately applied the findings, conclusions and observations of Appellant's examining physician to the proper five-step analysis.

MassHealth recognizes that Appellant has severe conditions that are expected to last for more than 12 months and these conditions cause a degree of limitation; however, the CE report and clinical documentation are consistent with MassHealth's ultimate determination that Appellant's residual functioning capacities are not reduced to a level that would render him **incapable** of performing jobs requiring light basic unskilled work that exist in the regional economy. At hearing, Appellant did not directly challenge MassHealth's findings and conclusions concerning any of the Social Security Listings that were reviewed. Appellant did credibly testify that in order to do his current work, he has to work harder and longer than his peers. MassHealth's analysis and conclusions support this testimony insofar as it concluded that Appellant's current work exceeds his current RFC's (e.g., Appellant is currently working at a job that requires capabilities that exceed his functional capacities).

Given the lack of any objective medical evidence running counter to the evidence set forth by MassHealth, this record provides no basis to disturb MassHealth's decision. MassHealth's determination was made by the full and proper application of the correct 5-step process to the available medical evidence. For the foregoing reasons, the appeal is DENIED.

Order for MassHealth

Remove AID PENDING.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290
MassHealth Representative: Eileen Cynamon, DES