

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2508657
Decision Date:	08/01/2025	Hearing Date:	7/31/2025
Hearing Officer:	David Jacobs		

Appearances for Appellant:



Appearances for MassHealth:

Linda Phillips, Associate Director of Appeals  
[Redacted] Waiver Nurse Reviewer



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

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility for Moving Forward Plan Waivers
<b>Decision Date:</b>	08/01/2025	<b>Hearing Date:</b>	7/31/2025
<b>Appearances for MassHealth:</b>	Linda Phillips, Victoria Lapriore	<b>Appearances for Appellant:</b>	██████
<b>Hearing Location:</b>	Board of Hearings (Quincy)		

### Authority

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

### Jurisdiction

Through notice dated 4/15/2025, MassHealth notified the appellant that he is not clinically eligible for participation in MassHealth's Moving Forward Plan Community Living Waiver (MFP-CL Waiver) because he cannot be safely served in the community within the terms of the waiver (Exhibit 1). Appellant filed a timely appeal on 6/5/2025 (Exhibit 2). Denial of eligibility for a waiver program is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth determined that the appellant is not eligible for participation in the MFP-CL Waiver.

### Issue

The issue is whether MassHealth correctly determined that appellant is not eligible for participation in the MFP-CL Waiver because he cannot be safely served in the community within the terms of this waiver?

## Summary of Evidence

MassHealth appeared at the hearing telephonically and was represented by the associate director of appeals (“director”) and a registered nurse. Appellant appeared at the hearing telephonically, pro se.

The director testified that *“MassHealth offers two home and community-based service (HCBS) Waivers; the MFP Residential Waiver (RS) and the MFP-CL Waiver. Both waivers help individuals move from a nursing home or long-stay hospital to an MFP-qualified residence in the community and obtain community-based services. The MFP-CL Waiver is for individuals who can move into their own home or apartment, or to the home of someone else, and receive services in the community that are less than 24 hours/day, 7 days per week. The MFP-RS Waiver is for individuals who need supervision and staffing 24 hours/day, 7 days per week. The appellant applied for the MFP-CL Waiver on January 13, 2025 (Exhibit 6, page 88).*

*Below are the eligibility criteria for the MFP Waivers (Exhibit A, pages 6-7):*

- *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*
- *For the MFP-RS Waiver, the applicant must need residential support services with staff supervision 24 hours/day, 7 days/week.*

*At issue for this appeal is:*

*Regulation 130 CMR 519.007 (H) (2)(a): Individuals Who Would be Institutionalized MFP HCBS Waivers (Exhibit 6, pages 81-82).*

- Was MassHealth correct in denying the appellant's application for the MFP-CL Waiver; because he cannot be safely served in the community within this Waiver?

On March 11, 2025, an assessment for Waiver eligibility was conducted in person at Leominster Rehabilitation and Nursing Center in Leominster, MA. In attendance at the assessment were: The appellant; [REDACTED] RN, MassHealth Nurse Reviewer, representing the ABI/MFP Waiver program. (Exhibit 6, page 118).

The assessment consists of completion of MFP documents including Minimum Data Set-Home Care (MDS-HC) (Exhibit 6, pages 93-106); Clinical Determination of Waiver Eligibility (Exhibit 6, pages 107-115); Acquired Brain Injury (ABI)/MFP Waivers Community Risks Assessment (Exhibit 6, pages 116-117); a review of the applicant's medical record; and a discussion with the facility staff.

The appellant is a [REDACTED] who initially applied several times to the MFP-CL and MFP-RS Waivers between 2019-2023. In [REDACTED], he was discharged to [REDACTED], and he was unenrolled from the MFP-RS Waiver (he was previously approved and waiting for placement) because [REDACTED] is a non-qualified setting. The appellant was admitted to [REDACTED]. He had an operation to aid in healing with this diagnosis, and he required antibiotic treatment and wound vacs for treatment prior to discharge. In addition, he experienced intermittent episodes of paranoia and delusions, but he was redirectable. Initially he was discharged to [REDACTED], for further treatment but he requested a transfer, and he was admitted to [REDACTED] (Exhibit 6, page 111).

The appellant's medical history includes [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] (Exhibit 6, page 111).

During the Waiver eligibility assessment review, the following documentation indicates that the appellant is not compliant with care and has accusatory behaviors:

- November 18, 2024: Social Services Note indicates that the appellant reported to [REDACTED] from Social Services that, "a woman is following him from facility to facility. Resident states he is sure that he heard her voice at the desk speaking with

*staff. Resident was given key to lock box and educated how to use the box and keep the key with him at all times.” Social worker will continue to follow and support the appellant (Exhibit 6, pages 157-158).*

- *January 27, 2025: Psychiatric Evaluation and Consultation reports that the appellant is seen for follow-up evaluation related to mood, insight, judgment and behaviors on the unit. The DON reports that the appellant has been behavioral and delusional. On January 24, 2025, the nurse’s note indicates, “that the resident is behavioral, refuses all his scheduled medications, has mood changes observed, noncooperative with care” (Exhibit 6, pages 153-154).*
- *February 3, 2025: Nursing Note by Director of Nursing states that she and the administrator met with the appellant to discuss continued medication and care refusals. The appellant stated he has been “picking and choosing” who he will allow care from, including medications. When he was asked why from the DON and administrator, the appellant became, “paranoid and had delusional perceptions that he was being monitored by all staff.” Education was provided to him regarding staff’s responsibilities and monitoring that they are required to perform each shift. The appellant was offered psychiatric services, but he declined (Exhibit 6, page 229).*
- *February 28, 2025: Nurse’s Note indicates that the appellant was asking the nurse about a person that was not in the SNF as a patient, visitor or staff member. He reported that, “every staff member is talking to a female named Aaron T”. He was reassured that this person does not live, visit or work at the SNF. The appellant was asked if he would like to speak to the social worker, but he declined. The nurse practitioner was updated and gave orders to monitor for increased paranoia (Exhibit 6, page 162).*

*On April 3, 2025, the appellant’s case was discussed at the MassHealth Waiver Clinical Team review meeting. In addition, on April 9, 2025, as part of the MFP Waiver eligibility process, a second clinical review was conducted by MassAbility (previously known as MRC) who oversee the community living waivers. MassHealth and MassAbility determined that the appellant is not considered to be clinically eligible for participation in the MFP-CL Waiver at this time. Nursing notes documented refusal of medications, including antibiotics for his chronic osteomyelitis, and the appellant is “picking and choosing” who he lets give him medications and provide care to him. The appellant continues to be a significant health and safety risk to himself due to noncompliance with medications and care, accusatory behaviors with paranoia and delusions. On April 15, 2025, a denial notice for the MFP-CL Waiver was mailed to the appellant (Exhibit 6, pages 89-90).*

*In Summary:*

*Based on the in-person assessment and the completed MFP documentation including: MDS-HC, ABI/MFP Waivers Community Risks' assessment, and Clinical Determination of Waiver Eligibility; and a thorough review of The appellant's medical record by both MassHealth and MassAbility, the appellant does not meet eligibility for the MFP-CL Waiver as documentation shows that he is at risk to self for noncompliance with medications and care, accusatory behaviors with paranoia, and delusions. Therefore, it is MassHealth's clinical and professional opinion that, at this time, based on the available medical records and interviews, the appellant cannot be safely served in the community within the MFP-CL Waiver."*

(Exhibit 7)

The appellant appealed telephonically and conceded to the majority of facts presented by MassHealth. However, he disagreed with MassHealth characterizing him as not taking his medications, "picking and choosing" who he will allow to care for him, and disagrees that he has paranoid schizophrenia. The appellant emphatically argues that he is actually being harassed by a worker who he met while a resident at [REDACTED] named Aaron T. He argues this woman is behind a campaign of harassment against the appellant and has personally, or through friends amongst the staff at [REDACTED], stolen or destroyed many of the appellant's belongings. He alleges that he has had packages delivered to the facility that have gone missing, found destroyed possessions in his room, had Miralax put in his food, and has personally seen Aaron speaking to staff about the harassment. As evidenced in MassHealth summary above, the facility denies that this person works at [REDACTED], nor do they have records of her entering the building. However, the appellant believes they are lying to protect the staff. He testified that he intends to get a lawyer involved and settle things that way. MassHealth responded by indicating that the facility diagnosed the appellant with paranoid schizophrenia based on this behavior on [REDACTED] but he refuses to take medication to treat it (Exhibit 6, pg. 154). The appellant concedes that he has refused to take this medication because he is of sound mind and the events surrounding Aaron T. are indeed happening to him.

As for MassHealth allegations that the appellant has refused to take medication and "picks and chooses" who he will allow to take care of him, the appellant argues that he is very mindful of his health and will never refuse medication that he needs. However, he concedes he has refused medication from staff members that he has a problem with on at least two occasions and alluded to other instances as well. He admitted that when he's upset, he will refuse care from certain staff he does not like and is working on being better about this by exercising when he has those feelings. The appellant argues that these incidents are few and far between though. He testifies that if he was living in the community, he would take all required medications and work with whoever MassHealth sent to care for him.

When the hearing officer asked the appellant where he would live if he were granted the MFP-CL waiver, he responded that he would live wherever MassHealth put him but preferred to stay

in [REDACTED]. The MassHealth representative responded by informing the appellant that he would be responsible for finding his own living arrangements. The appellant was not aware of this fact. He testified that he would have to start the process of looking for an apartment as he cannot stay with his mother as she is very ill and section 8 housing can take anywhere from 5-10 years to become available.

The appellant concluded by arguing that he wants to live on his own to start improving his life. He testified that he wants to start working again and take care of himself with the help of the MFP-CL waiver services. MassHealth responded that if the facility is willing to discharge him, he can still do those things using regular MassHealth services such as the Personal Care Assistant program. The appellant argued that his disability income isn't enough to live on his own and needs the MFP-CL waiver services to do so.

## Findings of Fact

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

1. The appellant is a [REDACTED].
2. The appellant's medical history includes [REDACTED]  
[REDACTED]  
[REDACTED]
3. On [REDACTED], the appellant was admitted to [REDACTED].
4. The appellant applied for the MFP-CL Waiver on 1/13/2025.
5. On 3/11/2025, an assessment for Waiver eligibility was conducted in person at Leominster Rehabilitation and Nursing Center in Leominster, MA. In attendance at the assessment were: the appellant; [REDACTED], Social Worker; and [REDACTED] RN, MassHealth Nurse Reviewer, representing the ABI/MFP Waiver program.
6. During the Waiver eligibility assessment review, the following documentation indicates that the appellant is not compliant with care and has accusatory behaviors:
  - a. November 18, 2024: Social Services Note indicates that the appellant reported to Rebecca Powers from Social Services that, "a woman is following him from facility to facility. Resident states he is sure that he heard her voice at the desk speaking with staff. Resident was given key to lock box and educated how to use

the box and keep the key with him at all times.” Social worker will continue to follow and support the appellant.

- b. January 27, 2025: Psychiatric Evaluation and Consultation reports that the appellant is seen for follow-up evaluation related to mood, insight, judgment and behaviors on the unit. The DON reports that the appellant has been behavioral and delusional. On January 24, 2025, the nurse’s note indicates, “that the resident is behavioral, refuses all his scheduled medications, has mood changes observed, noncooperative with care.”
  - c. February 3, 2025: Nursing Note by Director of Nursing states that she and the administrator met with the appellant to discuss continued medication and care refusals. The appellant stated he has been “picking and choosing” who he will allow care from, including medications. When he was asked why from the DON and administrator, The appellant became, “paranoid and had delusional perceptions that he was being monitored by all staff.” Education was provided to him regarding staff’s responsibilities and monitoring that they are required to perform each shift. The appellant was offered psychiatric services, but he declined.
  - d. February 28, 2025: Nurse’s Note indicates that the appellant was asking the nurse about a person that was not in the SNF as a patient, visitor or staff member. He reported that, “every staff member is talking to a female named Aaron T”. He was reassured that this person does not live, visit or work at the SNF. The appellant was asked if he would like to speak to the social worker, but he declined. The nurse practitioner was updated and gave orders to monitor for increased paranoia.
- 7. At least twice, the appellant has refused care in the past if he’s upset or does not like the staff member caring for him.
  - 8. On [REDACTED] the appellant was diagnosed with paranoid schizophrenia.
  - 9. On 4/15/2025, MassHealth denied appellant’s eligibility for the MFP-CL Waiver because he “cannot be safely served in the community within the terms of this waiver.”
  - 10. On 6/5/2025, the appellant appealed the 4/15/2025 notice.



## Analysis and Conclusions of Law

The instant appeal is governed by the MassHealth regulations, specifically 130 CMR 519.007, which 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 Community Living Waiver, for which the appellant has applied, is found within 130 CMR 519.007(H)(1) and (2):

(H) Money Follows the Person Home- and Community-based Services Waivers.

(2) Money Follows the Person (MFP) Community Living Waiver.

(a) Clinical and Age Requirements. The MFP Community Living 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 specified waiver services, other than residential support services in the home or community, if he or she meets all of the following criteria:

1. is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards; 130 CMR: DIVISION OF MEDICAL ASSISTANCE 519.007: continued
2. is 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. needs one or more of the services under the MFP Community Living Waiver;
- 5. is able to be safely served in the community within the terms of the MFP Community Living Waiver; and**
6. is 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. (*Emphasis added*)

MassHealth evaluated appellant's eligibility for the MFP-CL Waiver and determined that he is not able to be safely served in the community within the terms of the waiver (130 CMR 519.007(H)(1)(a)(5) and (2)(a)(5). The appellant has not demonstrated otherwise.

MassHealth's cites two primary safety concerns. First, the appellant has a history of refusing care. Second, the appellant refuses to seek treatment for delusional behavior. I will take each of these concerns in turn.

First, the appellant is adamant that he holds his health in high regard and will not refuse medical care that may be a detriment to his health. However, the appellant admitted several times during the hearing that he may refuse care when he's upset or does not like the person he's working with. He argues the problem is infrequent and he is working on it. However, he admitted it has occurred at least twice and alluded to additional times it may have happened, and as long as it remains a problem it is a safety concern that MassHealth is entitled to consider when deciding whether the appellant can be safely served in the community. As such MassHealth did not err in using the appellant's instances of non-compliance with care to decide that he cannot be safely served in the community.

Second, the appellant argues he is not delusional and there really is a healthcare worker named Aaron T. who is coordinating a campaign of harassment against the appellant. The appellant submitted no evidence to show the truth of these allegations. On its face, it seems unbelievable that a worker from a previous facility would go to such lengths to harass the appellant, coordinate the staff at the current facility where he resides to assist her, and get the facility to cover it all up. Medical staff at the facility seems to agree and diagnosed the appellant with paranoid schizophrenia due to these claims (Exhibit 6, pg. 154). The appellant offered no evidence besides his testimony to prove his version of events. Furthermore, the appellant concedes he has refused to seek treatment for this behavior. As such, MassHealth was within its discretion to agree with the facility medical professional's diagnosis and find that this delusional behavior meant that the appellant could not be safely served in the community.

As such, MassHealth was within its discretion to find that due to the appellant's behavior, he could not be safely served in the community.

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.

---

David Jacobs  
Hearing Officer  
Board of Hearings

cc:

Waiver Unit  
UMASS Chan Medical School  
333 South St.  
Shrewsbury, MA 01545