

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2508950
Decision Date:	9/3/2025	Hearing Date:	07/18/2025
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:



Appearance for MassHealth:

Via telephone:

Eileen Cynamon, BSN, RN, DES

Elizabeth Cruz, Tewksbury 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
Decision Date:	9/3/2025	Hearing Date:	07/18/2025
MassHealth's Rep.:	Eileen Cynamon; Elizabeth Cruz	Appellant's Rep.:	Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center, Remote	Aid Pending:	No

Authority

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

Jurisdiction

By notice dated March 20, 2025, MassHealth, through the University of Massachusetts Medical School Disability Evaluation Services (DES) notified the appellant that she was not disabled per Federal and State laws and regulations. As a result, on May 17, 2025, MassHealth notified the appellant that she did not qualify for MassHealth benefits because she was over the allowable income limit and her benefits would terminate on May 31, 2025 (Exhibit 1). The appellant filed this appeal in a timely manner on June 12, 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 determined that the appellant is not disabled and terminated her MassHealth Standard due to income.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant does not meet MassHealth's disability requirements.

Summary of Evidence

MassHealth was represented at hearing via telephone by an eligibility representative from the Tewksbury MEC and a DES appeals reviewer. The appellant also appeared at hearing via telephone. Documents submitted by both sides before hearing are contained in the record. Exhibits 5 and 6. A summary of testimony and documentation follows.

The MassHealth eligibility representative testified that on May 17, 2025, there was a system redetermination. The appellant, who is [REDACTED] is in a household of four. Exhibit 4. The household consists of her stepmother, father, an adult child, and the appellant. The stepmother, who is the head of the household, files jointly with her father, and they claim both adult children. The household's combined income is \$9,316.50 gross monthly, or 342.73% of the Federal Poverty Level (FPL). The income limit for a young adult age [REDACTED] 0 is 150% of the FPL, or \$4,019 gross monthly for a household of four. At the time of the redetermination, there was no verified disability for the appellant. Thus, on May 17, 2025, MassHealth determined that the appellant did not qualify for MassHealth benefits because she was over the allowable income limit. Exhibit 1. The MassHealth representative explained that, at her age, the appellant could create her own account if she is not claimed as a tax dependent by her parents.

The DES appeals reviewer explained that DES's role is to determine for MassHealth if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES uses a five-step process, which comes from the SSA code of federal regulations to determine an applicant's disability status. *See* 20 CFR § 416.920; 20 CFR § 416.905; Exhibit 5 at 9-11. The DES representative testified that under these regulations, disability is defined as 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 twelve months. *Id.* at 8. The definition of disability also requires that the applicant 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. *Id.*

The DES appeals reviewer testified that, under 20 CFR § 416.945, what a person can still do despite an impairment is called his or her residual functional capacity (RFC). *Id.* at 20-22. Unless an impairment is so severe that it is deemed to prevent an individual from doing substantial gainful activity it is this RFC that is used to determine whether the individual can still do past work or, in conjunction with age, education and work experience, any other work. *Id.*

The appellant initially submitted a MassHealth Adult Disability Supplement (hereinafter, Supplement) to DES on January 9, 2025; however, it was incomplete and there were missing medical releases. *Id.* at 33-37. DES did not receive a complete Supplement until February 27, 2025. *Id.* On March 14, 2025, DES received a second Supplement, but it was determined to be a duplicate. *Id.* The appellant listed the following health problems in her Supplement: Epilepsy, Seizures, and noted that she requires assistance with driving, and medication side effects can impact her ability to work. *Id.* at 45-49. With sufficient medical documentation to evaluate her complaints, DES began the 5-step review process, which addresses the following:

Step 1: Is the claimant engaging in substantial gainful activity?

Step 2: Does the claimant have a medically determinable impairment or combination of medically determinable impairments 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)?

Step 3: Does the claimant have an impairment(s) that meets an adult SSA listing, or is medically equal to a listing, and meets the duration requirement?

Step 4: Does the claimant retain the capacity to perform any past relevant work?

Step 5: Does the claimant have the ability to make an adjustment to any other work, considering the claimant's residual functional capacity, age, education, and work experience?

Though the appellant marked Step 1 as "No," the DES representative testified that Step 1 is waived by MassHealth regardless of whether the claimant is engaging in substantial gainful activity, while on the federal level, engaging in substantial gainful activity will stop the disability review in its entirety. *Id.* at 59.

For Step 2, the DES reviewer considered medical records submitted by several of appellant's providers. The disability reviewer marked "Yes," indicating that the appellant's complaints met SSA severity and duration requirements (it is severe and expected to last at least twelve months). *Id.* This directs that the reviewer continues to Step 3.

For Step 3, the disability reviewer marked "No." The reviewer compared the appellant's medical records to the appropriate adult SSA listing, 11.02 Epilepsy, to see if the appellant met such criteria. *Id.* at 59, 63-64.

The DES representative testified that for Steps 4 and 5, DES must evaluate the claimant's Residual Functional Capacity (RFC) and complete a vocational assessment. The DES representative explained that the RFC is the most the claimant can still do despite her

limitations. The RFC evaluation was based on the appellant's case record. On March 20, 2025, [REDACTED] a DES physician, performed a physical RFC. *Id.* at 65-67. [REDACTED] determined that the appellant has no exertional limitations when performing work; however, consideration of postural limitation for never climbing (ladders, scaffolding, etc.) and environmental limitation to hazards (machinery, heights, etc.) are warranted related to her Epilepsy/Seizure Disorder. *Id.* Apart from indicating that she had received special education in school setting, the appellant did not report any mental health complaints in the Supplement, nor did her doctor's records include either historic or current mental health concerns, diagnosis, or medications; therefore, a Mental RFC was not indicated. *Id.* at 77, 79. The disability reviewer completed a vocational assessment using the educational and work history reported in the Supplement. *Id.* at 58, 47-48. The five-step review process continued to Step 4.

For Step 4, the disability reviewer considered the appellant's part-time work as a [REDACTED] [REDACTED] working with children in an after-school program. *Id.* at 47-48, 77. She is also a student enrolled in college. *Id.* The disability reviewer noted that the appellant's part-time employment is not considered substantial gainful activity (SGA) for the purposes of past relevant work experience. *Id.* Therefore, the review continued to Step 5.

For Step 5, the disability reviewer asks "Does the claimant have the ability to make an adjustment to any other work, considering the claimant's age, education, and work experience?" *Id.* at 60. The disability reviewer selected "Yes," citing three unskilled jobs available within both the regional and national economy. *Id.* at 25-32. The disability reviewer determined the appellant is "Not Disabled." *Id.* at 60.

On March 20, 2025, the five-step review process concluded with a final review and endorsement of the disability determination by physician advisor [REDACTED] *Id.* at 57, 70. On March 20, 2025, DES transmitted the disability determination to MassHealth and mailed a denial letter to the appellant informing her that she was not disabled pursuant to Federal and State laws and regulations. *Id.* at 41 and 71.

The DES representative testified that they received additional documentation to consider prior to the appeal. Exhibit 6. This document, a letter from her doctor, was not available for the initial review, but upon review for the appeal, the information does not impact the current decision. *Id.* The information regarding the appellant's Epilepsy contained in the letter is consistent with the objective clinical visit notes received and reviewed during the original disability determination. The letter also indicated the appellant has diagnoses of ADHD – Inattentive Type, Generalized Anxiety Disorder (GAD), and a history of clinical depression, which impacts the appellant's ability to prioritize tasks, manage time, remain on task with minimal distraction, be self-critical, and experience self-doubt. *Id.* The DES representative testified that these concerns are not documented within the visit notes received from this provider. The record

available does not include objective documentation of chronic versus acute symptoms, nor specify the frequency, duration, severity, and any response to treatment. The appellant reported she is able to attend school and work part-time. She has not reported receiving care from emergency and/or outpatient mental health providers within the last twelve months. The relevant SSI listings for consideration include 12.04 -Depressive, Bipolar & Related Disorders; 12.06 – Anxiety & Obsessive - Compulsive Disorders; and 12.11 - Neurodevelopmental Disorders (ADHD). Based on the available information and in consultation with Senior Psych Physician Advisor [REDACTED] there is no evidence of serious functional impairments due primarily to her psychological condition which would support SSI listing level approval at this time.

The appellant testified as follows: her mom is currently living in [REDACTED] and her dad is about to move to another state, but she believes she is still claimed by her dad and stepmother on their taxes. She needs the disability determination and MassHealth coverage for medications and doctors' appointments. She only works nine hours per week. While she lives with her dad and stepmother, she does not receive any support from them. She reported that her last seizure was in December 2024. Without her medications, she would be having seizures, but without insurance, she will not be able to get her medications. She also has absence seizures, which appear like she is just spacing out, but she doesn't think these are well-documented in her records because it is not something she goes to a doctor or hospital for. She struggles with school a lot more, especially in math, due to her attention. She had an Individualized Education Plan (IEP) in high school. She wasn't sure why she had been determined disabled in the past, but not now when nothing has changed.

The DES representative explained that in the past, she had been approved under the Child's Disability Supplement.¹ There are different criteria for the children's disability listings, but now she falls under the adult SSA listings which are stricter. To meet the adult SSA listings for Epilepsy, an applicant must have at least one generalized tonic-clonic seizure per month for three consecutive months. Exhibit 5 at 63. According to documentation, the last time the appellant had a generalized tonic-clonic seizure was December 2024 and that was because of an adjustment in her medication when they were trying to taper her. To meet the SSA criteria, an applicant also needs to be in compliance with treatment. So, she would have to be having seizures, despite being on her medication.

¹ MassHealth records indicate that the appellant had been approved for MassHealth CommonHealth, Disabled Child (Category 50) from January 2018 through May 2025. Exhibit 4.

Findings of Fact

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

1. On May 17, 2025, MassHealth issued a notice informing the appellant, who is [REDACTED] that she was over the allowable income limit to qualify for MassHealth benefits.
2. Previously, the appellant had been on MassHealth CommonHealth as a disabled child.
3. On March 20, 2025, DES issued a notice informing the appellant that she was not disabled according to Federal and State laws and regulations.
4. On June 12, 2025, the appellant timely appealed the May 17 denial notice.
5. On January 9, 2025, the appellant submitted an incomplete Adult Disability Supplement. It was received in full on February 27, 2025 and listed Epilepsy, Seizures as her health problems.
6. DES requested and obtained medical documentation using the medical releases the appellant provided and reviewed additional clinical records submitted prior to hearing.
7. Step 1 of the 5-step review is waived by MassHealth regardless of the claimant's work status.
8. DES marked Step 2 as "yes," determining that the appellant has a medically determinable impairment or combination of impairments 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).
9. DES marked Step 3 as "no," having determined that the appellant does not meet or equal applicable adult SSA listing, 11.02 – Epilepsy.
10. The DES physician [REDACTED] determined that the appellant has no exertional limitations when performing work; however, consideration of postural limitation for never climbing and environmental limitation to hazards are warranted related to her Epilepsy/Seizure Disorder.
11. For Step 4, DES found that the appellant's part-time employment is not considered substantial gainful activity for the purposes of past relevant work experience.
12. For Step 5, DES marked "Yes," finding that the appellant has the ability to make an adjustment to any other work, considering her age and education, regardless of her previous

work experience and cited unskilled jobs in the regional and national economy that she could perform. At this step, DES determined that the appellant is not disabled.

13. The DES representative considered additional documentation submitted prior to hearing, but after the initial DES evaluation, which indicated the diagnoses of ADHD – inattentive Type, GAD, and a history of clinical depression. These concerns are not documented within the visit notes received from this provider and the record available does not include objective documentation of chronic versus acute symptoms, nor specify the frequency, duration, severity, and any response to treatment.
14. Based on the available information and in consultation with Senior Psych Physician Advisor [REDACTED] there is no evidence of serious functional impairments due primarily to the appellant’s psychological condition which would support SSI listing level approval at this time. Thus, the new information did not impact the current DES determination.

Analysis and Conclusions of Law

Disability determination

In order to be found disabled under the MassHealth rules, an individual must be “permanently and totally disabled” as defined in 130 CMR 501.001:

Permanent and Total Disability – a disability as defined under Title XVI of the Social Security Act or under applicable state laws.

(1) For Adults [REDACTED] Years of Age and Older.

(a) The condition of an individual, [REDACTED] of age or older, who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that

(i) can be expected to result in death; or

(ii) has lasted or can be expected to last for a continuous period of not less than 12 months.

(b) For purposes of 130 CMR 501.001: Permanent and Total Disability, an individual [REDACTED] of age or older is determined to be disabled only if his or her physical or mental impairments are of such severity that the individual is not only unable to do his or her previous work, but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives, whether a specific job vacancy exists, or whether the individual would be hired if he or she applied for work. "Work that exists in the national economy" means work that exists in significant numbers,

either in the region where such an individual lives or in several regions of the country.

The guidelines used by MassHealth to establish disability are the same as those used by the Social Security Administration. Disability is established by (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB); (b) a determination of disability by the SSA; or (c) a determination of disability by the Disability Evaluation Services (DES). 130 CMR 505.002(E)(2). Individuals who meet the Social Security Administration's definition of disability may establish eligibility for MassHealth Standard according to 130 CMR 505.002(F) or CommonHealth according to 130 CMR 505.004. Title XVI of the Social Security Act establishes the eligibility standards and the five-step sequential evaluation process (set forth in the summary *infra*). If a determination of disability can be made at any step, the evaluation process stops at that point.

Step 1 considers whether the applicant is involved in any substantial gainful activity. For MassHealth eligibility purposes, this step is waived. The review proceeds to Step 2, which determines whether the applicant has a severe impairment. To be considered severe, a medically determinable physical or mental impairment must: (1) limit the individual's ability to perform basic work activities; and (2) be expected to result in death or have lasted or be expected to last for a continuous period of not less than 12 months. Here, DES reviewed the appellant's history of Epilepsy, Seizures and determined that these impairments are severe and have lasted, or are expected to last, at least 12 months. As the appellant's reported impairments meet Step 2, the review proceeds 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 in light of the various impairments and determined that the appellant did not meet criteria listed in 11.02 – Epilepsy (or later, the criteria 12.04 -Depressive, Bipolar & Related Disorders; 12.06 – Anxiety & Obsessive - Compulsive Disorders; and 12.11 - Neurodevelopmental Disorders (ADHD)). There does not appear to be any error in DES's determination of Step 3. Records submitted as part of the hearing record did not include sufficient objective clinical findings to meet the criteria listed in 11.02 – Epilepsy, section A of which states the following: Generalized tonic-clonic seizures, occurring at least once a month for at least three consecutive months despite adherence to prescribed treatment. Additionally, there was insufficient objective, clinical evidence of serious functional impairments due primarily to her psychological condition which would support SSI listing level approval at this time under 12.04, 12.06, and 12.11.

The five-step process requires the review to proceed to Step 4 to examine the appellant's residual functional capacity (RFC) using the Social Security Administration's *Medical Vocational Guidelines* (20 CFR Ch. III, Pt. 404, Subpt. P, App. 2) to determine whether the appellant is able to perform previous work. Here, the disability reviewer found that the appellant did not have any past

substantial gainful work history to be considered for past relevant work history; however, it was not material because there would be a finding of “Not Disabled” at Step 5. The physician reviewer determined the appellant has no exertional limitations when performing work; however, consideration of postural limitation for never climbing and environmental limitation to hazards are warranted related to her Epilepsy/Seizure Disorder. Given the appellant’s capability of performing work in the regional and national economy, DES determined that the appellant is not disabled for the purposes of MassHealth eligibility.

While the appellant’s testimony is credible, it did not lend support to meeting the SSA listing criteria for 11.02 – Epilepsy, Seizures (or the listing criteria for the reported psychological conditions, 12.04, 12.06, and 12.11). Neither DES nor this hearing officer doubts the appellant’s symptoms or the impact they have on all aspects of her life; however, the appellant and her evidence have not reached the high burden of a determination of permanent and total disability.² The record supports DES’s conclusion that the appellant is not disabled under MassHealth’s regulations.

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant’s modified adjusted gross income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. A young adult ages 19 through 20 is eligible for MassHealth Standard if their income is at or below 150% of the FPL. 130 CMR 505.002(B)(3). MassHealth CommonHealth is available to both disabled adults, disabled working adults, and disabled children. 130 CMR 505.004(A).

Here, at the time of the MassHealth eligibility determination on May 17, 2025, the appellant’s household gross income was \$9,316.50 per month, or 342.73% of the FPL, which is over the allowable income limit.

As the DES determination and eligibility determination were not made in error, this appeal is denied.³

² This decision does not prevent the appellant from re-submitting the Adult Disability Supplement in the future, especially if there are any changes in her condition.

³ The appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765) or about the Health Safety Net to 877-910-2100.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957

Disability Contractor: DES, Appeals Unit, 333 South Street, Shrewsbury, MA 01545