

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2509238
<b>Decision Date:</b>	8/27/2025	<b>Hearing Date:</b>	08/12/2025
<b>Hearing Officer:</b>	Mariah Burns		

**Appearances for Appellant:**




**Appearances for MassHealth:**

Linda Phillips, RN, BSN, LNC-CSp, Associate  
Director – Appeals and Regulatory Compliance;  
Rhonda Rego, RN, PASRR Clinical Coordinator



*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>	Preadmission Screening and Resident Review (PASRR)
<b>Decision Date:</b>	8/27/2025	<b>Hearing Date:</b>	08/12/2025
<b>MassHealth's Rep.:</b>	Linda Philips, RN, BSN; Rhonda Rego, RN	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<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 May 30, 2025, the Preadmission Screening and Resident Review (PASRR) Unit for the Massachusetts Department of Mental Health (DMH) conducted an annual Level II Resident Review of the appellant and determined that she does not currently meet the definition for serious mental illness under the relevant statute. *See* 42 CFR § 483.102, 130 CMR 456.410, and Exhibit 1). The appellant filed this appeal in a timely manner on June 18, 2025. *See* 130 CMR 610.015(B)(8) and Exhibit 2. Challenging a PASRR determination is valid grounds for appeal. *See* 130 CMR 610.032(E).

### Action Taken by DMH/MassHealth

The PASRR Unit for DMH determined that the appellant does not currently meet the definition of serious mental illness under the PASRR statute.

## Issue

The appeal issue is whether DMH was correct in determining that the appellant does not currently meet the definition of serious mental illness for purposes of PASRR. The appellant also asks for a finding that she was wrongly determined to have serious mental illness upon her admission to the skilled nursing facility in which she resides.

## Summary of Evidence

The appellant was assisted at the hearing by her two siblings. MassHealth/DMH was represented by a registered nurse who is the Director of Appeals, and a registered nurse from the PASRR unit. All parties appeared in-person, except for the RN from the PASRR unit, who participated by video conference. The following is a summary of the relevant testimony presented and evidence provided at the hearing.

The appellant is a MassHealth member over the age of [REDACTED] who has resided at her current skilled nursing facility since [REDACTED]. She has previously been diagnosed with bipolar disorder, other personality and behavioral disorders, and personality change due to psychological condition, all of which she denies having. Upon her admission to the facility, she had a positive PASRR Level I screening. She has previously met the definition of serious mental illness after PASRR Level II screens in 2019, 2023, and 2024. The appellant's last psychiatric hospitalization was in [REDACTED] and she has had no other psychiatric interventions in the previous two years. Because of this, she was deemed to no longer meet the legal definition of "serious mental illness" for purposes of a PASRR determination. However, because the appellant previously met the definition after a Level II Screening, the DMH representatives reported that the appellant will have continued PASRR involvement unless and until she is discharged from the facility into the community. They explained that there will be no change to her PASRR-provided services.

The appellant testified that she does not have mental illness and that her involvement with psychiatric treatment began after she was seriously burned in the bathtub in 2023. She reported poor and inadequate treatment at the nursing facility. She expressed a desire to "clear her name" in the context of her mental health diagnoses. She argued that she should never have been deemed to have "serious mental illness" under PASRR and asked for the appeal to consider overturning those initial findings.

## Findings of Fact

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

1. The appellant has resided at a skilled nursing facility since [REDACTED] Testimony, Exhibit 5

at 68.

2. The appellant first screened positive for serious mental illness (SMI) in [REDACTED] after a PASRR Level II evaluation. She has since been determined to have serious mental illness under the PASRR statute after subsequent Level II annual evaluations in 2023 and 2024. Testimony.

3. Pursuant to the appellant's annual PASRR review, she underwent a PASRR Comprehensive Level II Evaluation on May 23, 2025. After that evaluation, DMH found that the appellant does not currently meet the definition SMI as defined by PASRR. The PASRR Unit issued a notice to that effect on May 30, 2025. Exhibit 1, Exhibit 44 at 78.

4. The appellant filed a timely request for fair hearing on June 18, 2025, challenging the findings of the May 30, 2025, determination. Exhibit 2.

5. The appellant has a diagnosis of a mental illness that does not include dementia and that also results in functional limitations of her major life activities. Testimony, Exhibit 5 at 77-78.

6. The appellant's most recent psychiatric hospitalization was on [REDACTED] Testimony, Exhibit 5 at 76. She has had no other psychiatric hospitalizations since [REDACTED] *Id.*

7. The appellant has not had any major disruptions to her living situation since [REDACTED] Exhibit 5 at 77.

## Analysis and Conclusions of Law

The Preadmission Screening and Resident Review (PASRR) is a federally-mandated program that applies to all individuals seeking admission to and residents of Medicaid-certified skilled nursing facilities. 130 CMR 610.004. Its purpose is to screen such individuals for mental illness, intellectual disabilities, or developmental disabilities to ensure that their needs are properly met. *Id.* The federal requirements for PASRR are codified at 42 CFR §§ 483.100-138 and 42 U.S.C. § 1396(e)(7). MassHealth has adopted those requirements as required by 42 CFR § 483.104 within 130 CMR 456.410 and Nursing Facility Bulletin (NFB) 186, the most recent version of which was updated in June 2024.

The PASRR process comprises of two stages: the Level I Screening and the Level II Evaluation and Resident Review. 130 CMR 456.410. The purpose of the Level I Screening is to determine whether an individual set to be admitted into a Medicaid-certified nursing facility "has or is suspected of having" an intellectual disability (ID), a developmental disability (DD), or serious mental illness (SMI, also known as MI by the federal regulations) as defined at 42 CFR § 483.102. The Level II Evaluation is summarized as follows:

A comprehensive independent evaluation that is consistent with federal PASRR regulations at 42 CFR 483.134, and conducted on individuals that have positive Level I Screenings. The Level II Evaluation is a person-centered assessment taking into account all relevant information, including the individual's or individual's authorized representative's goals and preferences for the individual's care. It is required to ascertain: 1) whether the referred individual has ID/DD, SMI, or both; and 2) if so, whether community-based services, admission to a nursing facility or other setting is appropriate; and, 3) if a nursing facility is appropriate, whether Specialized Services are required.

MassHealth NFB 186 at 4. If an individual is found to have ID/DD, SMI, or both, federal law requires them to undergo annual evaluations to ensure that the proper services, if necessary, are in place. See 42 CMR § 483.114 and MassHealth NFB 186 at 4-5. Federal law further requires an annual review of nursing facility residents "who [have] mental illness." 24 CFR § 483.112(a). MassHealth/DMH continue to conduct annual Level II screenings for individuals who have previously been deemed to have serious mental illness, even if they do not currently meet the definition, to ensure that proper services are provided while residing in the nursing facility. Testimony, Exhibit 1 at 1.

Federal regulations specifically define SMI for purposes of a PASRR evaluation. See 42 CFR § 483.102(b)(1). For an individual to be considered someone with SMI under the PASRR program, they must meet the following criteria:

(1) Diagnosis. The individual has a major mental disorder as described by 42 CFR §483.102(b)(1)(i), including:

(A) A schizophrenic, mood, paranoid, panic, or other severe anxiety disorder; somatoform disorder; personality disorder; other psychotic disorder; or another mental disorder that may lead to a chronic disability; but

(B) Not a primary diagnosis of dementia, including Alzheimer's disease or a related disorder (ADRD), or a non-primary diagnosis of dementia unless the primary diagnosis is a major mental disorder as described in 42 CFR §483.102(b)(1)(i)(A).

(2) Level of impairment. The disorder results in functional limitations in major life activities within the past 3 to 6 months that would be appropriate for the individual's developmental stage. An individual typically has challenges in at least one of the following characteristics on a continuing or intermittent basis as described by 42 CFR §483.102(b)(1)(ii): interpersonal functioning; concentration, persistence, and pace; or adaptation to change.

(3) Recent Treatment. The treatment history indicates that the individual has experienced at least one of the following as described in 42 CFR §483.102(b)(1)(iii):

(A) Psychiatric treatment more intensive than outpatient care, *more than once in the past two years* (e.g., partial hospitalization or inpatient hospitalization); or

(B) *Within the last two years, due to the mental disorder, experienced and [sic]*

*episode of significant disruption to the normal living situation, for which supportive services were required to maintain functioning at home, or in a residential treatment environment, or which resulted in intervention by housing or law enforcement officials.*

MassHealth NFB 186 at 6 (emphasis added).

Individuals who disagree with their PASRR determination have the right to a fair hearing under 130 CMR 610.032(E). Requests for a fair hearing after a PASRR determination must be made within “30 days after an individual receives written notice of his or her PASRR determination. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing.” 130 CMR 610.015(B)(8). The appellant has the burden of proof at such a hearing “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” 130 CMR 610.082(A) and (B).

In this case, the appellant makes two seemingly contradictory arguments: first, that the PASRR report was prepared based on false and inappropriate information and is therefore, incorrectly determined; and second, that she has never met the definition of serious mental illness. For the reasons stated herein, I find that the appellant has not met her burden of proof to show that the May 30, 2025, PASRR determination was made incorrectly, and I find that the appellant has not timely raised the issue that she should never have been deemed to have serious mental illness under PASRR.

With respect to the instant notice, DMH reported that because the appellant has not been hospitalized more than once in the past two years, nor has she had a disruption to her living situation, she does not currently meet the definition of serious mental illness. The appellant provided no evidence to the contrary, and, in fact, argued that her one psychiatric hospitalization was done so wrongly. It is unnecessary to reach any other prong of the analysis, because the evidence makes clear that criterion number 2 of 42 CFR § 483.102(b)(1) has not been met. The appeal is therefore denied with respect to that issue.

With respect to the appellant’s argument that she should never have been found to have serious mental illness, the appellant’s initial positive PASRR Level II determination was made in [REDACTED]. As that determination was made more than 30 days ago, this request is not made in a timely manner consistent with 130 CMR 610.015(B)(8). This appeal cannot take action over the appellant’s request if it is not made timely. Thus, I make no finding as to the appellant’s initial finding of serious mental illness.

To the extent that the appellant argues that the MassHealth regulations are unfair or illegal, this

hearing offers her no mechanism for a remedy, and the appellant should seek relief in the courts. See 130 CMR 610.082(C) ("If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency...[and] cannot rule on the legality of such law or regulation and [such a challenge] must be subject to judicial review in accordance with 130 CMR 610.092").

Therefore, I find that the PASRR Level II Determination from May 30, 2025, was properly made, and the appellant does not currently meet the definition of SMI pursuant to 42 CFR § 483.102(1).

For the foregoing reasons, the appeal is hereby 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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Mariah Burns  
Hearing Officer  
Board of Hearings

[REDACTED]

[REDACTED]

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