

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2509993
<b>Decision Date:</b>	09/23/2025	<b>Hearing Date:</b>	08/07/2025
<b>Hearing Officer:</b>	Christine Therrien		

**Appearance for Appellant:**

Pro se

**Appearances for MassHealth:**

Eileen Cynamon, R.N., Disability Evaluation Services  
Michael Rossi, Quincy



*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>	Eligibility, Under 65; Disability
<b>Decision Date:</b>	09/23/2025	<b>Hearing Date:</b>	08/07/2025
<b>MassHealth's Reps.:</b>	Eileen Cynamon, Michael Rossi	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South Telephonic		

### 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 6/10/25, MassHealth changed the appellant's MassHealth benefits because MassHealth determined that she was no longer determined to be disabled.<sup>1</sup> (130 CMR 505.002 and Exhibit 1). The appellant filed this appeal in a timely manner on 7/4/25. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that he does not meet MassHealth's disability requirements.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 505.002(E), in determining that the appellant is not permanently and totally disabled.

### Summary of Evidence

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<sup>1</sup> MassHealth received the DES tracking form on 6/9/25 which listed the appellant as not disabled.

The MassHealth Appeals Reviewer for Disability Evaluation Services (DES) testified telephonically (DES representative). The DES representative testified that her role at DES is to determine, for MassHealth, if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES representative testified to the following: DES uses a 5-step process, as described by SSA regulations at 20 Code of Federal Regulations (CFR) Ch. III part 20 CFR 416.920 to determine initial disability status. The process is driven by the applicant's medical records and disability supplement. 20 CFR §416.905 (Exhibit 5, 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, the appellant must have a severe impairment(s) that makes them unable to do their past relevant work or any other substantial gainful work that exists in the regional economy. Per 20 CFR 416.989 (Exhibit 5, page 40), adult MassHealth applicants who have been previously declared disabled will periodically undergo a Continuous Disability Review (CDR) to determine if an applicant remains clinically eligible for disability. A CDR is initiated by DES at the request of MassHealth. The CDR is an 8-step evaluation process as described within 20 CFR 416.994 (Exhibit 5, pages 47-60).

Per SSA 20 CFR 416.994, if a member has been entitled to disability benefits as a disabled person aged eighteen or over (adult), there are a few factors DES considers in deciding whether the member's disability continues. DES must determine if there has been any medical improvement in the member's impairment(s) and, if so, whether this medical improvement is related to the member's ability to work. Even where medical improvement related to the member's ability to work has occurred, DES must also show that that the member is currently able to engage in substantial gainful activity (SGA) before they can find that the member is no longer disabled.

To ensure that disability reviews are carried out in a uniform manner, that a decision of continuing disability can be made in the most expeditious and administratively efficient way, and that any decisions to stop disability benefits are made objectively, neutrally, and are fully documented, DES follows specific steps in reviewing the question of whether an appellant's disability continues. The CDR may cease, and benefits may be continued at any point, if it is determined there is sufficient evidence to find that the appellant is still unable to engage in substantial gainful activity. The 8-step sequential review process is listed within 20 CFR 416.994(b)(5) (Exhibit 5, pages 58-59).

The appellant is a [REDACTED] who was initially determined disabled in 2018, and at that time, the clinical documentation supported her continued disability through the 5-step process, equaling SSI listing 6.05 – Chronic Kidney Disease. This 2018 initial disability review (IDR) episode will be referred to as the Comparison Point Determination (Exhibit 5, pages 153-257) episode.

The appellant submitted a complete MassHealth Adult Disability Supplement to DES on April 7, 2025. DES initiated a Continuous Disability Review (CDR) episode on April 7, 2025. The appellant reported current and continued complaints (Exhibit 5, pages 156-157) of [REDACTED], chronic kidney disease (CKD) stage 4 renal disease status post kidney transplant [REDACTED], lifetime need for immunosuppressive therapy, and complaints of fatigue and trouble remembering.

DES requested and obtained medical documentation using the medical releases the appellant provided (Exhibit 5, pages 70-77). Information was received from two of the client's reported providers: [REDACTED]

[REDACTED] (Exhibit 5, pages 113-118), [REDACTED] (Exhibit 5, pages 120-152) same comment as above). No information was received from [REDACTED]

[REDACTED] The current medical documentation received at DES, along with the historic documentation contained in the CPD, was reviewed, and the current objective documentation was determined sufficient to proceed with the CDR.

Prior to initiating the 8-step process, the question of sufficient information received/available to make a determination must be evaluated (A): in the appellant's review, DES marked "Yes" on page 92 of Exhibit 5.

The 8-step CDR process can begin (Exhibit 5, page 94).

- ❖ **Step 1** asks if the claimant is engaging in substantial gainful activity (SGA). While federal SSA regulations would stop if the claimant were engaging in SGA, MassHealth waives this step and continues with the review. Step 1 was marked "Undetermined" (Exhibit 5, page 94). This step is an SSA consideration having to do with earnings and has no bearing on whether someone is found disabled or not disabled for MassHealth purposes.
- ❖ **Step 2** asks if any impairment(s) meet or equal a listing in the current Listing of Impairments? (Exhibit 5, page 94). The CDR reviewer answered, "No." – Listings considered were: 6.05 – Chronic Kidney Disease with Impairment in Kidney Function, 6.06 Nephrotic Syndrome, and this appeal reviewer (AR) also considered 6.09 – Complications of Chronic Kidney Disease (Exhibit 5, pages 101-104).
- ❖ **Step 3** asks if there is Medical Improvement (MI) (Decreased Severity)? (Exhibit 5, page 94) The CDR reviewer answered "Yes," indicating the appellant has had a significant decrease in medical severity in at least one of the impairments present at the time of CPD, resulting in MI; the reviewer completed the MI Comparison documentation (Exhibit 5, page 95).

Comparison point blood work as follows:

CPD: [REDACTED] (Exhibit 5, pages 197-251).

[REDACTED]

CPD: [REDACTED] (Exhibit 5, pages 169-187)

[REDACTED]

Current Evidence: [REDACTED] et al. of [REDACTED]  
[REDACTED]

[REDACTED]

"10/18/2024 appellant seen in renal transplant clinic for follow-up.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

For the duration of the review, Residual Functional Capacity (RFCs) assessments are necessary. A RFC is a clinical assessment that describes what a person can still do despite their impairments. Current RFCs are used at Step 4b in conjunction with the CPD RFCs and are also needed for Steps 7 & 8.

An All-Impairments Physical CDR RFC evaluation (considering all impairments supported by current data as of 5/29/2025) was completed by [REDACTED] on May 29, 2025. The RFC indicated that this client is capable of performing the full range of light work activity; consideration of never climbing (ladders, scaffolding, etc.), and limiting environmental hazards (machinery, heights, etc.) were noted secondary to CKD and pain (Exhibit 5, pages 105-107).

[REDACTED]

- ❖ **Step 4** asks if there is Medical Improvement (MI) related to the ability to work? (Exhibit 5, page 97). The 2019 CPD determination was based on the impairment(s) meeting or equaling a listing; therefore, the current review proceeds to Step 4a.  
**Step 4a** asks is the prior listing(s) currently met or equaled (as that listing appeared at CPD)? See SSI listing 6.05 as it appeared in 2019 (Exhibit 5, pages 165-166). The CDR reviewer marked 'No,' indicating that the medical improvement relates to the ability to work. Continue to STEP 6.
- ❖ **Step 6** asks is there a current impairment(s) or a combination of impairments that is severe? (Exhibit 5, page 99). The CDR reviewer selected "Yes," and the review proceeded to Step 7.

- ❖ **Step 7** asks whether the claimant retains the capacity to perform Past Relevant Work (PRW)? (Exhibit 5, page 100) Per the appellant's description, in her current Disability Supplement, her current/past SGA work history as a Business Owner (Exhibit 5, page 89) is not well described – the appellant indicates her work requires her to do paperwork, filing, serves people, moves things, cleans, uses a computer, phone, cash register, uses office machines and operates machines; in her job she walks or stands 2 hours/work day, sits 5 hours/work day, reaches 2 hours/work day, lifts or carries most often 10 pounds, heaviest weight lifted of 25 pounds. Additionally, the appellant indicates working 32 hours/week without a monthly income amount, “depends on the month.” Although the question of SGA is undetermined, it will not impact the final disability outcome. The CDR reviewer selected “No,” confirming the appellant's current/past work exceeds her Physical RFC capabilities of Light work at this time. The review proceeds to the last step.
- ❖ **Step 8** asks if the appellant has the ability to make an adjustment to any other work, considering the claimant's RFC, age, education, and work experience? (Exhibit 5, page 100) The CDR reviewer selected “Yes,” citing the Medical-Vocational Guidelines (commonly referred to as the GRID) located within the POMS (Program Operations Manual System) DI 25025.035 B. 202.00, Maximum Sustained Work Capability Limited to Light Work As A Result Of Severe Medically Determinable Impairment(s), Table No. 2 (Exhibit 5, pages 66-68). Per GRID ruling(s) 202,21 and also 202.22, given the appellant's age, education, and regardless of her previous work experience (page 68), the appellant is not disabled. The appellant's disability ceased, resulting in a determination that the appellant is “Not Disabled” using decision code 231 (Exhibit 5, pages 91, 100, 108). The 8-step CDR disability process concludes with a final review and endorsement of the disability decision by Medical Physician Advisor (PA) [REDACTED], on June 5, 2025 (Exhibit 5, pages 91, 108) A UMass Chan DES Disability Determination denial letter for the appellant was created on June 5, 2025 (Exhibit 5, page 109), and DES transmitted the decision to MassHealth on June 9, 2025 (Exhibit 5, page 81).

The DES representative testified that, in summary, the appellant does not meet or equal the Adult SSI listings either individually or in combination of complaints. Additionally, the appellant has had a significant decrease in medical severity in at least one of her impairments present at the time of the 2019 CPD, resulting in medical improvement, which is related to her ability to work. The appellant's RFC indicates she is capable of performing light work activity in the competitive labor market. Although SGA could not be determined with the available information, the appellant's description of her work as medium exceeds her RFC capabilities currently; therefore, determining PRW is not necessary, as it will not impact the final determination. Based on the GRID ruling's 202.21 and 202.22, the appellant does not meet the clinical disability requirements.

The DES representative testified that the Appeals Review finds the appellant was correctly determined 'Not Disabled' for Title XVI benefits under the 8-step CDR process.

The appellant testified that she owns a med-spa that performs laser hair removal. The appellant testified that she has tremors now due to two mini-strokes, so she had to hire someone else to operate the laser. The appellant testified that Step 3 compares her pre-transplant numbers in 2018 to now. The appellant testified that she has had reduced renal function since 2020, from 75% to 25%. The appellant testified that at times she cannot work due to hospitalization. The appellant testified that in 2020, she was hospitalized three times. The appellant testified that she was told a transplant recipient would always be considered disabled.

The DES representative testified that SSI listing 6.05 (Chronic Kidney Disease, with Kidney Transplant) is valid for one year from the date of the transplant, but is not a lifelong disability category. DES did not consider code 6.04 for this reason. The DES representative testified that to meet the definition for SSI listing 6.05 – Chronic Kidney Disease, one would have to have two episodes of lab values outside the normal range within a 90-day period. The appellant has been stable over the past year. The DES representative testified that the appellant's lab numbers are not at the level where she would be put back on the transplant list.

## Findings of Fact

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

1. MassHealth applicants who have been previously declared disabled will periodically undergo a CDR to determine if an applicant remains clinically eligible for disability.
2. A CDR is initiated by DES at the request of MassHealth. The CDR is an 8-step evaluation process as described within CFR 416.994 (Exhibit 5, pages 47-60).
3. Per SSA regulation 20 CFR 416.994, if a member is entitled to disability benefits as a disabled person aged eighteen or over (adult), there are a few factors DES considers in deciding whether the member's disability continues. DES must determine if there has been any medical improvement in the member's impairment(s) and, if so, whether this medical improvement is related to the member's ability to work. Even where medical improvement related to the member's ability to work has occurred, DES must also show that the member is currently able to engage in SGA before DES can find that the member is no longer disabled.
4. The appellant is a [REDACTED] who was initially determined disabled in 2018, and at that time the clinical documentation supported her continued disability through the 5-step process, equaling SSI listing 6.05 – Chronic Kidney Disease.
5. This 2018 IDR episode will be referred to as the CPD episode found on Exhibit 5, pages 153-257.

6. The appellant submitted a complete MassHealth Adult Disability Supplement to DES on April 7, 2025.
7. DES initiated a CDR episode on April 7, 2025.
8. The appellant reported current and continued complaints of [REDACTED], CKD stage 4 renal disease s/p [REDACTED], lifetime need for immunosuppressive therapy, and complaints of fatigue and trouble remembering. (Exhibit 5, pages 156-157).
9. DES requested and obtained medical documentation using the medical releases the appellant provided (Exhibit 5, pages 70-77).
10. Information was received from two of the client's reported providers: [REDACTED]  
[REDACTED] (Exhibit 5, pages 120-152).
11. No information was received from [REDACTED]  
[REDACTED]
12. The current medical documentation received at DES, along with the historic documentation contained in the CPD, was reviewed, and the current objective documentation was deemed sufficient to proceed with the CDR.
13. Prior to initiating the 8-step process, the question of sufficient information received/available to make a determination must be evaluated (A): in the appellant's review, this was marked "Yes" on page 92 of Exhibit 5.
14. **Step 1** asks if the claimant is engaging in SGA. While federal SSA regulations would stop if the claimant were engaging in SGA, MassHealth waives this step and continues with the review. Step 1 was marked "Undetermined" (page 94). This step is an SSA consideration having to do with earnings and has no bearing on whether someone is found disabled or not disabled for MassHealth purposes.
15. **Step 2** asks if any impairment(s) meet or equal a listing in the current Listing of Impairments? (Exhibit 5, page 94). The CDR reviewer answered, "No." – Listings considered were: 6.05 – Chronic Kidney Disease with Impairment in Kidney Function, 6.06 Nephrotic Syndrome, and this appeal reviewer (AR) also considered 6.09 – Complications of Chronic Kidney Disease (Exhibit 5, pages 101-104).

16. **Step 3** asks if there is MI (Decreased Severity)? (Exhibit 5, page 94). The CDR reviewer answered “Yes,” indicating the appellant has had a significant decrease in medical severity in at least one of the impairments present at the time of CPD, resulting in MI; the reviewer completed the MI Comparison documentation (Exhibit 5, page 95).

Comparison point bloodwork is as follows:

[REDACTED]

[REDACTED]

17. Also with regard to determining Decreased Severity, Current Evidence:

[REDACTED]

18. Also with regard to determining Decreased Severity,

[REDACTED]

19. Also with regard to determining Decreased Severity, “10/18/2024 seen in renal transplant clinic for follow-up.

[REDACTED]

[REDACTED]

20.

21.

22. For the duration of the review, RFCs assessments were made.

23. An RFC is a clinical assessment that describes what a person can still do despite their impairments. Current RFCs are used at Step 4b in conjunction with the CPD RFCs and are also needed for Steps 7 & 8.

24. An All-Impairments Physical CDR RFC evaluation (considering all impairments supported by current data as of 5/29/2025) was completed by [REDACTED].

25. The RFC indicated that this client is capable of performing the full range of light work activity; consideration of never climbing (ladders, scaffolding, etc.), and limiting environmental hazards (machinery, heights, etc.) were noted secondary to CKD and pain (Exhibit 5, pages 105-107).

26. [REDACTED] summary (Exhibit 5, page 107) describes the appellant as a [REDACTED] who cites Barter's with chronic kidney disease stage 4, nephrotic syndrome. Barter's status post kidney transplant 5/2019 on immunosuppression, no history of rejection treatment. [REDACTED]), mild anemia. Has had recurrent UTIs, treated with prolonged antibiotic courses, and underwent recent stent removal due to pain. Exam: normal BMI (body mass index), benign abdomen, no edema, unremarkable joints, normal gait with mild tremor.

[REDACTED]

27. **Step 4** asks if there is MI related to the ability to work? (Exhibit 5, page 97) The 2019 CPD determination was based on the impairment(s) meeting or equaling a listing; therefore, the current review proceeds to Step 4a.
28. **Step 4a** asks if the prior listing(s) currently met or equaled (as that listing appeared at CPD)? See SSI listing 6.05 as it appeared in 2019 (Exhibit 5, pages 165-166). The CDR reviewer marked “No,” indicating that the medical improvement relates to the ability to work. Continue to STEP 6.
29. **Step 6** asks is there a current impairment(s) or a combination of impairments that is severe? (page 99). The CDR reviewer selected “Yes,” and the review proceeded to Step 7.
30. **Step 7** asks whether the claimant retains the capacity to perform Past Relevant Work (PRW)? (Exhibit 5, page 100). Per the appellant’s description, on her current Supplement, her current/past SGA work history as a Business Owner (Exhibit 5, page 89) is not well described – the appellant indicates her work requires her to do paperwork, filing, serves people, moves things, cleans, uses a computer, phone, cash register, uses office machines and operates machines; in her job she walks or stands 2 hours/work day, sits 5 hours/work day, reaches 2 hours/ work day, lifts or carries most often 10 pounds, heaviest weight lifted of 25 pounds (this description falls into the medium work category due to requirement to lifting 25 pounds). Additionally, the appellant indicates working 32 hours/week without a monthly income amount, “depends on the month.” Although the question of SGA is undetermined, it will not impact the final disability outcome. The CDR reviewer selected “No,” confirming the appellant’s current/ past work exceeds her Physical RFC capabilities of Light work at this time. The review proceeded to the last step.
31. **Step 8** asks if the claimant have the ability to make an adjustment to any other work, considering the claimant’s RFC, age, education, and work experience? (Exhibit 5, page 100). The CDR reviewer selected “Yes,” citing The Medical-Vocational Guidelines (commonly referred to as the GRID) located within the POMS DI 25025.035 B. 202.00, Maximum Sustained Work Capability Limited to Light Work As A Result Of Severe Medically Determinable Impairment(s), Table No. 2 (Exhibit 5, pages 66-68). Per GRID ruling(s) 202.21 and also 202.22, given the appellant’s age, education, and regardless of their previous work experience (Exhibit 5, page 68), the appellant is not disabled. The appellant’s disability ceased, resulting in a determination that the appellant is “Not Disabled” using decision code 231 (Exhibit 5, pages 91, 100, 108). The 8-step CDR disability process concludes with a final review and endorsement of the disability decision by Medical PA [REDACTED], on June 5, 2025 (Exhibit 5, pages 91, 108). A UMass Chan DES Disability Determination denial letter for the appellant was created on

June 5, 2025 (Exhibit 5, page 109), and DES transmitted the decision to MassHealth on June 9, 2025 (Exhibit 5, page 81).

32. The appellant does not meet or equal any Adult SSI listings either individually or in combination of complaints. Additionally, the appellant has had a significant decrease in medical severity in at least one of her impairments present at the time of the 2019 CPD, resulting in Medical Improvement, which is related to her ability to work.
33. The appellant's RFC indicates she is capable of performing light work activity in the competitive labor market. Although SGA could not be determined with the available information, the appellant's description of her work as medium exceeds her RFC capabilities currently; therefore, determining PRW is not necessary, as it will not impact the final determination.
34. Based on the GRID ruling's 202.21 and 202.22, the appellant does not meet the clinical disability requirements.
35. The appellant owns a med-spa that performs laser hair removal.
36. To meet the definition for SSI listing 6.05 – Chronic Kidney Disease, one would have to have two episodes of lab values outside normal range within a 90-day period. The appellant has been stable over the past year.
37. The appellant's lab values are not at the level where she would be put back on the transplant list.

## **Analysis and Conclusions of Law**

In order to be found disabled for MassHealth Standard benefits, an individual adult must be "*permanently and totally disabled.*" (130 CMR 501.001). The guidelines used in establishing disability under the MassHealth program are very similar to those used by the SSA. Individuals who meet the SSA's definition of disability may establish eligibility for MassHealth Standard according to 130 CMR 505.002(E), or for CommonHealth according to 130 CMR 505.004. Per 20 CFR 416.905, the SSA 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."

The federal Social Security Act establishes the eligibility standards and 8-step evaluation tool used to conduct the CDR reevaluations. The CDR reevaluations are periodically required by federal law for those who have already previously been found disabled at some point under the 5-step test.

(20 CFR 416.994(b)(5)). If a determination of disability can be made at any step of the process, the specific evaluation process stops at that point.

The purpose of the CDR evaluation is to determine if there has been any medical improvement in the appellant's impairments, and, if so, whether this medical improvement is related to their ability to work. If the appellant's impairment(s) has not medically improved, the reviewer must consider whether one or more of the exceptions to medical improvement apply. If medical improvement related to the appellant's ability to work has not occurred and no exception applies, the appellant's benefits will continue.<sup>2</sup> Even where medical improvement related to the appellant's ability to work has occurred or an exception applies, in most cases, the reviewer must also show that the appellant is currently able to engage in substantial gainful activity before the reviewer can find that the appellant is no longer disabled.

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<sup>2</sup> 20 CFR 416.994(b)(3) First group of exceptions to medical improvement. The law provides for certain limited situations when your disability can be found to have ended even though medical improvement has not occurred, if you can engage in substantial gainful activity. These exceptions to medical improvement are intended to provide a way of finding that a person is no longer disabled in those limited situations where, even though there has been no decrease in severity of the impairment(s), evidence shows that the person should no longer be considered disabled or never should have been considered disabled. If one of these exceptions applies, we must also show that, taking all your current impairment(s) into account, not just those that existed at the time of our most recent favorable medical decision, you are now able to engage in substantial gainful activity before your disability can be found to have ended. As part of the review process, you will be asked about any medical or vocational therapy you received or are receiving. Your answers and the evidence gathered as a result as well as all other evidence, will serve as the basis for the finding that an exception applies. 20 CFR 416.994(b)(4) Second group of exceptions to medical improvement. In addition to the first group of exceptions to medical improvement, the following exceptions may result in a determination that you are no longer disabled. In these situations the decision will be made without a determination that you have medically improved or can engage in substantial gainful activity. (i) *A prior determination or decision was fraudulently obtained.* If we find that any prior favorable determination or decision was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 416.1488. In determining whether a prior favorable determination or decision was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time. (ii) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail, without good cause, to do what we ask. Section 416.1411 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 416.918 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your disability ends will be the first month in which you failed to do what we asked. (iii) *We are unable to find you.* If there is a question about whether you continue to be disabled and we are unable to find you to resolve the question, we will suspend your payments. The month your payments are suspended will be the first month in which the question arose and we could not find you. (iv) *You fail to follow prescribed treatment which would be expected to restore your ability to engage in substantial gainful activity.* If treatment has been prescribed for you which would be expected to restore your ability to work, you must follow that treatment in order to be paid benefits. If you are not following that treatment and you do not have good cause for failing to follow that treatment, we will find that your disability has ended (see § 416.930(c)). The month your disability ends will be the first month in which you failed to follow the prescribed treatment.

## **The 8-Step Method for Continuous Disability Review**

The 8-step method is the sequential evaluation process established by the Social Security Act and described in 20 CFR 416.994(b)(5) for the purpose of determining initial eligibility for Medicaid benefits such as MassHealth:

At Step 1, it is determined whether the disability applicant is currently engaged in substantial gainful activity. If an applicant is engaged in such work with such income, the applicant may be found to be not disabled (Step 1 is waived for MassHealth purposes). The process continues on to Step 2. This step is waived in an applicant's favor during a MassHealth disability review, and MassHealth thus essentially begins its review at Step 2.

At Step 2, a decision is made as to whether the applicant's impairments meet or equal a listing in the current Listing of Impairments. The review then proceeds to Step 3.

At Step 3, it is asked whether there has been medical improvement or decreased severity of the ailment(s), which is determined by the RFC assessment. The review proceeds to Step 4, which asks the question of whether there is Medical Improvement related to the ability to work. In order to determine the Medical Improvement, the CDR reviewer is directed to Step 4b and compares the record at the initial determination of disability with the current record, including the physical and mental RFCs and the Medical Improvement Review Standard (MIRS) RFC.

At Step 6, the CDR determines whether there are current impairments or a combination of impairments that are severe. If this step is answered "Yes," the review proceeds to Step 7.

At Step 7, a determination is made as to the applicant's RFC and whether the applicant can perform some prior work based on his or her capacity. If the applicant can perform his or her prior work, the review ends, and the applicant is found to be "not disabled." Otherwise, the review proceeds to the final step at Step 8.

At the final step, Step 8, it is asked whether the applicant can perform any other work that is available in sufficient quantities in the national economy. If so, the applicant is found to be "not disabled." If the applicant is not found able to do other work, the applicant will be determined to be a "disabled" adult.

DES correctly determined that the appellant no longer qualifies as disabled. In 2018, the appellant met the qualifications for SSI listing 6.05 – Chronic Kidney Disease with Impairment in Kidney Function. In 2019, the appellant had a kidney transplant. Currently, the appellant does not meet the criteria listed in the SSA listing under 6.05 – Chronic Kidney Disease with Impairment in Kidney Function, 6.06 – Nephrotic Syndrome, or 6.09 – Complications of Chronic Kidney Disease. There is nothing in the medical record to support that the appellant's condition meets or equals a listing utilized by the SSA.

Because no listings were met, DES proceeded to Step 3. At Step 3, the DES correctly found that the

appellant's medical situation had improved. At Step 8, DES correctly found that the appellant has the ability to make an adjustment to other work available in the regional economy, considering the appellant's RFC, age, education, and work experience.

DES did not err in determining that the appellant no longer meets or equals the current or prior Adult SSA listings either individually or in combination of complaints, and the appellant was correctly determined to be "Not Disabled."

The appellant currently owns a med-spa, and while she may no longer be capable of performing the task of laser hair removal, she is still able to run and oversee the business. In consideration of the record as a whole, including the testimony, medical records, and supporting documentation, the appellant has not established by a preponderance of evidence that she is permanently and totally disabled from performing any employment.

Therefore, 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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Christine Therrien  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, Cassandra Moura

cc: Disability Evaluation Services, U.Mass. Medical School