

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2510015
Decision Date:	9/15/2025	Hearing Date:	8/05/2025
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Linda Phillips, Associate Director of Appeals and Regulatory Compliance for UMass Chan Medical School

Interpreter:

N/A



*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:	MFP-CL Waiver
Decision Date:	9/15/2025	Hearing Date:	8/05/2025
MassHealth's Rep.:	Linda Phillips, R.N.	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (Tel)	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

Through a notice dated June 10, 2025, MassHealth denied the Appellant's application for an MFP-CL Waiver because MassHealth determined that the Appellant was not clinically eligible. (see 130 CMR 519.007(H)(2) and Exhibit 1). The Appellant filed this appeal in a timely manner on July 7, 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 denied the Appellant's application for an MFP-CL Waiver finding that that Appellant was not clinically eligible for the waiver. (Exhibit 1)

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.007(H)(2), in denying the Appellant's MFP-CL Waiver because of its finding that the Appellant cannot be safely served in the community within the Waiver.

Summary of Evidence

The Appellant is a person under the age of 65 who was hospitalized in early 2024 for lower extremity edema and pain as well as a Covid infection. (Exhibit 5, pgs. 110-113) The Appellant was treated for these conditions, but due to heavy alcohol use, concern for alcohol withdrawal, and reported past seizures during withdrawal, the Appellant remained in the ICU. Once stable, the Appellant was discharged to home. In late winter of 2024, the Appellant returned to the hospital having developed bilateral leg pain and swelling as well as non-purulent drainage from sores on her legs. The Appellant was treated for [REDACTED]

[REDACTED] At admission, a urine toxicology screen was positive for cocaine and fentanyl, and the Appellant was monitored with CIWA (Clinical Institute Withdrawal Assessment) and COWS (Clinical Opioid Withdrawal Scale). The Appellant was seen by addiction psychiatry and started on methadone at 95mg daily. Following treatment, she was transferred for further medical, substance use, and rehab services in late winter of 2024. (Exhibit 5, Exhibit 5, pg. 110, Exhibit 6)

The Appellant's past medical history includes [REDACTED]

[REDACTED] (Testimony, Exhibit 5, Exhibit 6)

MassHealth was represented by a registered nurse (RN), the Associate Director of Appeals and Regulatory Compliance for UMass Chan Medical School. The nurse testified regarding the Residential and Community waiver offered by MassHealth. The nurse explained that MassHealth offers two home and community-based service (HCBS) Waivers; the MFP Residential Waiver (RS) and the MFP Community Living Waiver (CL). (Testimony, Exhibit 5, Exhibit 6) Both of these waivers aid individuals to move from a nursing home or hospital to an MFP-qualified residence in the community and obtain community-based services. The MFP-CL Waiver is, specifically, for people who can move to their own home or apartment or to the home of someone else and receive services in the community. (Testimony, Exhibit 6) The Appellant applied for an MFP-CL Waiver, pursuant to 130 CMR 519.007(H)(2), on March 7, 2025. (Exhibit 5, pg. 87, Exhibit 6)

Within the submission on behalf of UMass, the eligibility criteria for the MFP Waivers may be found. (Exhibit 5) Additionally, the criteria are codified within 130 CMR 519.007(H)(2)(a). The nurse testified that the criteria include:

- 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
- In addition to the above, to qualify for the MFP-RS Waiver, an applicant must need residential support services with staff supervision 24 hours/day, 7 days/week.

The nurse testified that on May 7, 2025, an assessment for MFP-CL Waiver eligibility was conducted in person at the skilled nursing facility in which the Appellant resides. The Appellant was present as well as a reviewing nurse from MassHealth. (Testimony, Exhibit 5, pg. 74). The nurse testified that the assessment consisted of the completion of MFP documentation including Minimum Data Set-Home Care (MDS-HC) (Exhibit 5, pgs. 92-105), ABI/MFP Clinical Determination Assessment (Exhibit 5, pgs. 106-115), ABI/MFP Waivers Community Risks Assessment (Exhibit 5, pgs. 116-117), and a review of the Appellant's medical and facility records. (Exhibit 5, pgs. 76-233) Within the submission by UMass are hospital records (Exhibit 5, pgs.126-128), skilled nursing facility notes (Exhibit 5, pgs.129-148), behavioral health group notes (Exhibit 5, pgs. 149-178), SUD notes (Exhibit 5, pgs. 179-180), physician/np progress notes (Exhibit 5, pgs.181-224), interdisciplinary notes (Exhibit 5, pgs. 225-234), as well as a summary report, dated April 26, 2025. (Exhibit 5, pgs. 235-239)

The Appellant is medically stable and has not had any hospitalizations or falls since admission to the skilled nursing facility. (Testimony) Due to diabetes, the Appellant is prescribed Jardiance 10 mg daily and Metformin 1000 mg twice a day. The Appellant is not currently receiving finger sticks to monitor blood sugar levels, however the Appellant noted she has checked her finger sticks prior in the community and would be able to do so if needed. The Appellant reported signs and symptoms of hypo/hyperglycemia and how to treat both. The Appellant's last documented A1C = 7.7% in March 2024. For her cardiac conditions, the Appellant is prescribed Lasix 60 mg and Losartan 50 mg daily. The Appellant is on a controlled carbohydrate diet with no added salt. Medical notes from March 2025 indicate the Appellant had achieved beneficial weight loss. Although dietary notes a month later, in April 2025, indicate a weight gain in excess of 50 pounds. (Testimony, Exhibit 5) The Appellant eats frequently throughout the day and asks the kitchen for extra meal trays. She additionally has prescriptions for as-needed Albuterol inhaler, medication for cough and congestion, as well as stool medication. The Appellant continues to smoke, supervised, while at the skilled nursing facility. (Testimony, Exhibit 5)

Appellant was noted to tolerate the dose reduction of Abilify well and psychiatry notes from March 2025 – April 2025 indicate stability and no further medication changes. In an April mental status examination, the Appellant presented as calm and oriented. The Appellant denied auditory hallucinations and anxiety, expressed some depression but did not want any medication changes. The Appellant denied suicidal and homicidal ideations, side effects of medication, trouble sleeping as well as issues with sobriety. Her psychiatric medications include Abilify 15 mg twice a day and Risperdal 1 mg daily for schizophrenia, Buspar 5 mg three times a day for anxiety, Cymbalta 30 mg and Sertraline 125 mg daily for depression, Hydroxyzine 50 mg three times a day for anxiety, Melatonin 10 mg daily for sleep. (Testimony, Exhibit 5, pgs. 110-113, Exhibit 5)

During the assessment, the Appellant reported a history of alcohol abuse as well as narcotic abuse (crack cocaine and heroin). Within the hospital documentation, the Appellant's urine toxicology screen was positive for cocaine and fentanyl. The Appellant admitted drinking 3 pints of vodka, daily, with the Appellant's most recent reported drink occurring the day before her hospitalization. The Appellant explained during the assessment that she had thought she was using heroin and didn't realize the substance she imbibed contained fentanyl. In the past, the Appellant had reported the drug use and drinking were caused by a prior unhealthy relationship that lasted for [REDACTED] years. The Appellant reported early-onset substance use commencing with crack cocaine at the age of [REDACTED] followed by alcohol and opiates. The Appellant reported numerous adverse childhood experiences and identified living with abuse and trauma. The Appellant reported numerous arrests and incarcerations due to substance use disorder, cumulating in approximately [REDACTED] years of incarceration. The Appellant has undergone no fewer than [REDACTED] detox admissions along with at least [REDACTED] long-term residential program attendances. The Appellant has a history of [REDACTED] opiate overdoses, necessitating the need for Narcan administration. (Testimony, Exhibit 5, Exhibit 5, pgs. 110-113)

The Appellant's longest reported length of sobriety was 16 months, and the Appellant's current sobriety has been 8 months while residing at the skilled nursing facility. Although, during the current assessment the Appellant had stated her longest period of sobriety was 4 years slightly less than a decade prior. The Appellant had been a resident at the skilled nursing facility in the past, with a previous discharge due to the Appellant's desire to use alcohol and drugs. In June 2024, the Appellant had requested to speak with the SUD counselor on account of her desire to leave the facility to imbibe alcohol. The Appellant did not follow through with her plan for discharge in order to imbibe alcohol. The Appellant displayed pride that she has been free from alcohol and illicit narcotics. The Appellant denied any current cravings and denied any triggers. During the May 2025 assessment, the Appellant reported that she continues to go to SUD meetings daily and plans to continue this in the community. However, this report was belied by the SUD's counselor. The counselor was contacted after the assessment visit and reported the Appellant had completely stopped attending SUD meetings as of the end of April 2025. She is currently on methadone 150 mg daily due to her history of substance use that is administered daily at the skilled nursing facility. Methadone dose was

increased since her last assessment (previously on 95 mg daily). (Exhibit 5, Exhibit 5, pgs. 179-239)

In January of 2025, the Appellant was involved with another resident that has been known to divert illicit drugs, arranging to meet the individual upstairs. Based upon this observation, the Appellant was placed on frequent checks and noted that any suspicion of drug possession or use would result in the Appellant being sent to the ER. (Exhibit 5, pgs. 155)

In a March 2025 SUD note, it is memorialized that the SUD counselor met with the Appellant due to noticeable change in disposition over the prior weeks. It was noted she stopped going to group meeting regularly, and when the Appellant did attend, the Appellant was observed to sleep in her wheelchair not engaged and not participating. The Appellant has been observed to sleep in her wheelchair during the day and to fall asleep during meetings and activities. The Appellant reported feeling extremely lethargic related to medication and verbalized desire to get back to attending and participating daily in groups. (Exhibit 5, pgs. 179-239)

The SUD counselor reported via an email from November 2024 that he did not believe the Appellant would succeed on her own in the community. The counselor noted progress, but memorialized concerns that that Appellant had not gained necessary insight and judgment related to her substance abuse disorder which would be an impediment to her successful, sober transition into the community. The counselor was contacted again as part of the May 2025 assessment and reported via email "Unfortunately, [Appellant] has stopped attending recovery groups and I have had little interaction with her in the recent past. I do have grave concerns for her ability to reside independently and feel she would be best served in a group/congregate housing modality." (Testimony, Exhibit 5, pgs. 112-114)

Care plan indicates behavioral problems that include socially inappropriate behavior: the Appellant yells, acts disruptively, is verbally abusive. The Appellant has been observed to threaten, curse, scream at others, resist care, and display intrusive behaviors. However, nursing, MD and psychiatric notes do not indicate any recent behavioral. It was reported that the Appellant has no open warrants. (Exhibit 5, pgs. 110-113)

The Appellant reported she was born and raised in [REDACTED] She has a brother and a sister residing locally. The Appellant has 5 daughters, most of her children residing locally. The Appellant's daughters had been contacted during a prior assessment reported they are willing to provide the Appellant with some support as needed. It was reported that the Appellant had been difficult to support— yelling and cursing at her daughters, and it was observed that the Appellant's substance use disorder appeared to magnify this behavior. Although they are willing to provide support, the Appellant is seeking housing outside of [REDACTED] (Exhibit 5, pgs. 110-113)

The report notes that the Appellant presents with multiple risks for entering the community. The Appellant is at risk for medical decompensation due to her complex medical needs and need for both hernia and knee repair. The Appellant is at risk for psychological decompensation due to her history of schizophrenia, depression, anxiety, and history of suicidal ideations. The Appellant is at risk for falls and self-neglect due to impaired mobility, at risk for relapse due to long substance use history. Although the Appellant has continued to maintain her sobriety while at the skilled nursing facility, the SUD counselor did note concerns in January 2025 due to her associations as well as in March 2025 when she stopped going to groups consistently. Additionally, this May 2025 the Appellant has stopped going to groups altogether. The report notes that the Appellant continues to be at high risk of relapse and has no formal plan to maintain her sobriety. The report concludes that the Appellant cannot be safely served within the MFP-CL waiver at this time. (Exhibit 5, pgs. 110-113)

On May 28, 2025, the UMass Chan Waiver Complex Clinical Eligibility Team reviewed the clinical assessment, community needs, and risks of the Appellant. The team reviewed the documentation and information contained within Exhibit 5. The team summarized that although the Appellant had maintained a period of recovery, on account of her substance use history as well as the SUD counselor noting as of the end of April the Appellant had stopped attending SUD groups altogether, the Appellant continues to remain at significantly high risk for substance use disorder in a less restricted environment. The UMass Chan Complex Clinical Team determined that the Appellant continues to be a significant risk to herself due to substance use disorder and requires a higher level of support than can be provided through the waiver. The team highlighted the risks for overall medical and psychiatric decompensation, concluding that the Appellant cannot be safely served in the community within the terms of MFP-CL waiver. (Exhibit 5, pg. 114)

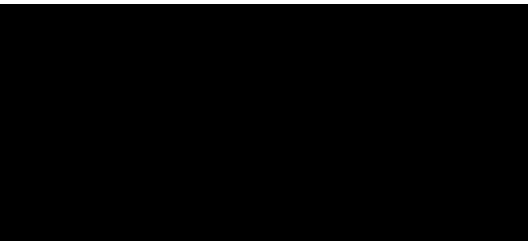





On June 4, 2025, the MassAbility Waiver Clinical Eligibility Redetermination Team met to review the recommendation of the UMass Chan Waiver Complex Clinical Eligibility Team to deny the Appellant's application for the MFP-CL waiver. Following the review of materials provided and the discussion of these materials, the MassAbility team agreed with the UMass Chan Waiver Complex Eligibility Team's recommendation for denial of eligibility. The MassAbility team found that the Appellant continues to be a significant risk to herself due to her substance use disorder and requires a higher level of support than is available with a community waiver. The team noted that the Appellant had no formal plan to maintain sobriety, is not currently participating in treatment and is at risk for overall medical and psychiatric decompensation. The team concluded that the Appellant cannot be safely served within the terms of the MFP-CL waiver. (Exhibit 5, pg. 114-115)

The Appellant's Representative, a social worker, appeared on behalf of the Appellant. (Testimony) The Appellant did not appear. The Appellant's Representative indicated that she wished to proceed without the Appellant. (Testimony). The Appellant's Representative stated that the Appellant had been attending groups sessions, based upon a review of the facility's

computer system. (Testimony). The Appellant's Representative stated that the Appellant has been approved for housing through MassAbility. (Testimony). The Appellant's Representative testified that the Appellant does have a plan to maintain sobriety, but it is not a formal plan. (Testimony). The Appellant's Representative indicated that the Appellant has support in the community and has looked into community support resources that exist near where she intends to reside. (Testimony)

Findings of Fact

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

1. The Appellant is person under the age of 65 seeking approval of an MFP-CL Waiver. (Exhibit 1, Exhibit 2, Exhibit 4)
2. The Appellant's past medical history includes 
 (Testimony, Exhibit 5, Exhibit 6)
3. The Appellant exhibits signs of hypervigilance. The Appellant was reported as having auditory hallucinations at baseline. Psychiatry notes indicate previous inpatient and outpatient community services and a history of suicidal ideations, suicide attempts, as well as self-injurious behavior (SIB). The Appellant has had several psychiatric medication changes for continued anxiety, depression, and auditory hallucinations and she has had further medication changes during the assessment. (Exhibit 5, Exhibit 5, pgs. 110-113)
4. The Appellant has a history of alcohol abuse as well as narcotic abuse (crack cocaine and heroin). The Appellant's urine toxicology screen has tested positive for cocaine and fentanyl. At one point, the Appellant imbibed up to 3 pints of vodka, daily. (Testimony, Exhibit 5, pgs. 110-113)
5. The Appellant has numerous arrests and incarcerations due to substance use disorder, cumulating in approximately  years of incarceration. The Appellant has undergone no fewer than  detox admissions along with at least  long-term residential program attendances. The Appellant has a history of  opiate overdoses, necessitating the need for Narcan administration. (Testimony, Exhibit 5, pgs. 110-13)

6. The Appellant had been a resident at the skilled nursing facility in the past, with a previous discharge due to the Appellant's desire to use alcohol and drugs. (Testimony, Exhibit 5, pgs. 110-113)
7. In June 2024, the Appellant had requested to speak with the SUD counselor on account of her desire to leave the facility to imbibe alcohol. The Appellant did not follow through with her plan for discharge in order to imbibe alcohol. (Testimony, Exhibit 5, pgs. 110-113)
8. During the May 2025 assessment, that Appellant reported that she continues to attend SUD meetings daily and plans to continue this in the community. However, this report was belied by the SUD counselor. The counselor was contacted after the assessment visit and reported the Appellant had completely stopped attending SUD meetings as of the end of April 2025. (Testimony, Exhibit 5, pgs. 110-113)
9. On May 28, 2025, the UMass Chan Waiver Complex Clinical Eligibility Team reviewed the clinical assessment, community needs, and risks of the Appellant. The team reviewed the documentation and information contained within Exhibit 5. The UMass Chan Complex Clinical Team determined that the Appellant continues to be a significant risk to herself due to substance use disorder and requires a higher level of support than can be provided through the waiver. The team highlighted the risks for overall medical and psychiatric decompensation, concluding that the Appellant cannot be safely served in the community within the terms of MFP-CL waiver. (Exhibit 5, pg. 114)
10. On June 4, 2025, the MassAbility Waiver Clinical Eligibility Redetermination Team met to review the recommendation of the UMass Chan Waiver Complex Clinical Eligibility Team to deny the Appellant's application for the MFP-CL waiver. Following the review of materials provided and the discussion of these materials, the MassAbility team agreed with the UMass Chan Waiver Complex Eligibility Team's recommendation for denial of eligibility. The MassAbility team found that the Appellant continues to be a significant risk to herself due to her substance use disorder and requires a higher level of support than is available with a community wavier. (Exhibit 5, pgs. 114-115)
11. On June 10, 2025, a denial notice for the MFP-CL Waiver was issued to the Appellant (Exhibit 5, pgs. 88-89).

Analysis and Conclusions of Law

The instant appeal is governed by the MassHealth Regulations, specifically 130 CMR 519.007:

519.007: Individuals Who Would Be Institutionalized

130 CMR 519.007 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)(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;
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*)

On March 7, 2025, the Appellant applied for Home-and Community-Based Services Waiver for the MFP-Community Living Waiver. (Exhibit 5, p. 87) On June 10, 2025, MassHealth denied the Appellant's application for the MFP-Community Living Waiver based upon 130 CMR 519.007(H)(2), and the instant appeal followed. (Exhibit 5, pgs. 88-89) The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v.

Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). Based upon the evidence presented, the Appellant has not met this burden.

The Appellant displays community risks including the risk for medical decompensation, psychological decompensation, falls and self-neglect. Particularly concerning is the Appellant's severe risk of substance use relapse. Despite the fact that the Appellant has maintained her sobriety while residing at the skilled nursing facility, the Appellant has stopped attending groups, had stated during the assessment that she was attending groups despite having stopped, and has no formal plan to maintain sobriety within the community. The Appeal Representative's statement regarding the computer indicating that the Appellant is attending groups must be a recent occurrence, based upon the information provided by the SUD counselor. I credit the information from the SUD counselor regarding the Appellant's attendance at SUD groups. The Appellant's substance use history has led to overdoses, severe medical consequences, as well as nearly half a decade of incarceration. Based on this record, the Appellant has not met the burden to show, by a preponderance of evidence, that the denial of MFP-CL Waiver was invalid pursuant to 130 CMR 519.007(H)(2). Failing to meet this burden, the 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.

Patrick M. Gogan
Hearing Officer
Board of Hearings

cc:

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