

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2513518
Decision Date:	02/17/2026	Hearing Date:	12/30/2025
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearances for MassHealth:
Eileen Cynamon, RN, Appeals Reviewer,
Disability Evaluation Services; Sherriane
Paiva, Taunton MassHealth Enrollment Center



*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:	Community Eligibility; Under 65; Disability Evaluation Services
Decision Date:	02/17/2026	Hearing Date:	12/30/2025
MassHealth's Reps.:	Eileen Cynamon, RN, Sherrienne Paiva	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center	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 August 5, 2025, the MassHealth Disability Evaluation Services (DES) issued a determination that the appellant is not clinically disabled for purposes of MassHealth eligibility. *See* 130 CMR 501.001 and Exhibit 1. The appellant filed an appeal in a timely manner on September 17, 2025, but did not provide the notice with his fair hearing request. He submitted a new appeal on November 28, 2025, which was deemed timely by the Board of Hearings. *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 Disability Evaluation Services determined that the appellant is not disabled according to federal and state law.

Issue

The appeal issue is whether MassHealth DES correctly determined that the appellant's condition is not severe under federal and state law and the appellant is therefore not disabled.¹

Summary of Evidence

The appellant is an adult under the age of 65. MassHealth was represented by a registered nurse and clinical appeals reviewer for the MassHealth Disability Evaluation Services (DES) as well as a worker from the Taunton MassHealth Enrollment Center. The appellant and the DES representative appeared at the hearing in-person, while the MassHealth representative appeared by telephone. The following is a summary of the evidence and testimony provided at the hearing:

The appellant submitted his disability supplement to MassHealth on March 26, 2025. As part of the appellant's disability supplement, he reported suffering from the following health problems:

[REDACTED]

In reviewing the appellant's application, MassHealth relied on roughly 45 pages of medical records from the appellant's providers. See Exhibit 5 at 84-129.

The DES representative testified that, in making a disability determination for purposes of MassHealth eligibility, DES relies on the evaluation process followed by the Social Security Administration at the federal level. For an applicant who has never had a clinical determination made of their disability such as the appellant, MassHealth/Social Security uses a five-step process as described, *infra*.

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 severe impairment. Here, DES reviewed the appellant's history of medical, physical, and mental health/psychiatric complaints and determined that these impairments are not severe and have not lasted, nor are expected to last, at least 12 months. As the appellant's reported impairments do not meet Step 2, DES concluded its review and determined that the appellant is not disabled for purposes of MassHealth eligibility.

In determining the severity of the appellant's impairments, MassHealth relied on the records

¹ The appellant's financial eligibility for MassHealth was discussed at the hearing; however, he did not appeal a denial notice based on financial eligibility, nor did he assert that he meets the income requirements.

² The appellant conceded that he is not asserting a disability based on his physical ailments, only his mental/emotional conditions. Thus, this appeal will only focus on the appellant's psychological impairments.

submitted by the appellant as well as a Psychiatric Consultive Exam (CE) conducted by the DES Medical team. The appellant's medical records detailed a psychiatric treatment plan with a nurse practitioner from May of 2024, wherein the appellant reported that he was "doing okay" and is "tolerating medication without any complications." Exhibit 5 at 96. The notes indicate that the appellant's anxiety, depression, and panic attacks have improved recently, but the appellant reported a suicide attempt "in February," which, presumably, referred to February 2024. The CE was conducted via telehealth on June 17, 2025, by a DES licensed psychologist. Exhibit 5 at 88-91. During the exam, the appellant was found to be adequately groomed, able to follow the flow of conversation, and although he was somewhat anxious and nervous, it did not prevent him from participating in the examination. *Id.* at 90. He reported no suicidal or homicidal ideations, nor any problematic medical history outside a level of generalized anxiety. *Id.*

After review of the available medical documentation and evaluations, including the CE, MassHealth determined that the appellant shows evidence of having "depressive disorder and [generalized anxiety disorder] without any current symptoms that result in serious functional impairments." Exhibit 5 at 79. Thus, on August 5, 2025, MassHealth determined that the appellant does not meet the criteria listed at Step 2, determined that the appellant is not disabled, and issued a notice to that effect.

During the pendency of the appeal, the appellant provided additional medical documentation that stated that the appellant has been receiving psychiatric treatment since [REDACTED], and required a brief medical leave of absence from work due to side effects from a newly-initiated psychiatric medication. The appellant was cleared to return to work on November 24, 2025. The DES representative testified that, although the increase in severity of his psychiatric symptoms may have met the severity requirements of Step 2, they did not meet the duration requirements, as they had not lasted and are not expected to last for at least 12 months. The DES representative testified that, for an impairment to be considered severe under the regulations, it must significantly impact someone's ability to function, such as an inability to sleep each night or depression that prevents someone from getting out of bed in the morning. Where the appellant is, generally and at present, able to work and otherwise function, he does not meet either the severity or duration requirements for MassHealth to be able to proceed beyond Step 2 of the appellant's evaluation.

The appellant provided written testimony, which he dictated into the record, along with a letter from his clinician and his current treatment plan. He stated that he is currently able to work because he has access to treatment and medication. He reported that his insurance plan through the Health Connector was being terminated on January 1, 2026, pursuant to the so-called federal "Big Beautiful Bill," and that any other insurance option was prohibitively expensive for himself and his spouse. He expressed concern that, without access to his treatment and medications, he will be unable to remain psychiatrically stable. He reported that the uncertainty surrounding his health insurance has caused a worsening of his psychological symptoms and reports a finding of a disability from MassHealth will provide him consistency and alleviate this growing concern.

Findings of Fact

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

1. The appellant is an adult under the age of 65. Testimony, Exhibit 1, Exhibit 4.
2. The appellant submitted his disability supplement to MassHealth on March 26, 2025. As part of the appellant's disability supplement, he reported suffering from [REDACTED] in addition to certain, irrelevant, physical ailments. Exhibit 5 at 61, Testimony.
3. In reviewing the appellant's application, MassHealth considered approximately 45 pages of medical documents and a Psychiatric Consultive Exam conducted by a DES licensed psychologist. Exhibit 5 at 88-129.
4. Step 1 of the 5-step review is waived by MassHealth regardless of the applicant's work status. Testimony, Exhibit 5 at 73.
5. Step 2 requires a determination that the appellant's condition meets both the severity and duration requirements set forth by the regulations. Testimony, Exhibit 5 at 11-12. DES determined that the appellant has no mental limitations that interfere with his ability to work, and that he does not meet the severity and duration requirements. Testimony, Exhibit 5 at 73. As a result, on August 5, 2025, DES issued a notice determining that the appellant is not disabled for purposes of MassHealth eligibility. Exhibit 1.
6. The appellant filed a timely request for November 28, 2025, which was deemed timely by the Board of Hearings. Exhibit 2.
7. The appellant suffers from anxiety and depression and is, as of the time of the hearing, receiving treatment and medication for his conditions, treatment with which the appellant is compliant. Testimony, Exhibit 6.
8. The appellant is currently employed. Testimony. His mental health deteriorated in November 2025, which forced him to take a medical leave of absence from work for a short period. Testimony, Exhibit 6 at 6. As of November 24, 2025, the appellant's provider has cleared him to return to work. Exhibit 6 at 6.

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and

financial standards that must be met to qualify for a particular MassHealth coverage type for individuals who are under age 65. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. The MassHealth coverage types are:

- (1) *Standard* - for pregnant women, children, parents and caretaker relatives, young adults, disabled individuals, certain persons who are HIV positive, individuals with breast or cervical cancer, independent foster care adolescents, Department of Mental Health members, and medically frail as such term is defined in 130 CMR 505.008(F);
- (2) *CommonHealth* - for disabled adults, disabled young adults, and disabled children who are not eligible for MassHealth Standard;
- (3) *CarePlus* - for adults 21 through 64 years of age who are not eligible for MassHealth Standard;
- (4) *Family Assistance* - for children, young adults, certain noncitizens, and persons who are HIV positive who are not eligible for MassHealth Standard, CommonHealth, or CarePlus;
- (5) *Small Business Employee Premium Assistance* - for adults or young adults who
 - (a) work for small employers;
 - (b) are not eligible for MassHealth Standard, CommonHealth, Family Assistance, or CarePlus;
 - (c) do not have anyone in their premium billing family group who is otherwise receiving a premium assistance benefit; and
 - (d) have been determined ineligible for a Qualified Health Plan with a Premium Tax Credit due to access to affordable employer-sponsored insurance coverage;
- (6) *Limited* - for certain lawfully present immigrants as described in 130 CMR 504.003(A), nonqualified PRUCOLs, and other noncitizens as described in 130 CMR 504.003: *Immigrants*; and
- (7) *Senior Buy-In and Buy-In* - for certain Medicare beneficiaries.

130 CMR 505.001(A).

In this case, the appellant agrees that he is over the income limits to qualify for all MassHealth coverage types beyond MassHealth CommonHealth. The question, then, is whether he meets the requirements for those benefits. To qualify for MassHealth CommonHealth, a disabled working adult must meet the following:

- (1) be 21 through 64 years of age (for those 65 years of age or older, see 130 CMR 519.012: MassHealth CommonHealth);
- (2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;

- (3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms;
- (4) be a citizen as described in 130 CMR 504.002: U.S. Citizens or a qualified noncitizen as described in 130 CMR 504.003(A)(1): Qualified Noncitizens;
- (5) be ineligible for MassHealth Standard; and
- (6) comply with 130 CMR 505.004(J).

130 CMR 505.004. There is no dispute that the appellant meets all of the qualifications other than being permanently and totally disabled. Thus, that is the only issue on appeal. A member or applicant may demonstrate their permanent and total disability by meeting the following:

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

(1) For Adults 18 Years of Age and Older.

(a) The condition of an individual, 18 years 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 18 years 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.

130 CMR 501.001. For purposes of MassHealth eligibility, disability is established by (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB); (b) a determination of disability by the Social Security Administration (SSA); or (c) a determination of disability by the MassHealth Disability Evaluation Services (DES). 130 CMR 505.002(E)(2). Here, there is no evidence that the appellant has been deemed legally blind by MCB or disabled by the SSA, and therefore the only avenue through which the appellant may be considered disabled is a DES evaluation.

As stated at the hearing, the guidelines used by DES to establish disability are the same as 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(F) or CommonHealth according to 130 CMR 505.004. Applicants who have never been deemed clinically disabled undergo a the five-step sequential evaluation process as established by Title XVI of the Social Security Act:

(4) *The five-step sequential evaluation process.* The sequential evaluation process is a series of five “steps” that we follow in a set order. See paragraph (h) of this section for an exception to this rule. If we can find that you are disabled or not disabled at a step, we make our determination or decision and we do not go on to the next step. If we cannot find that you are disabled or not disabled at a step, we go on to the next step. Before we go from step three to step four, we assess your residual functional capacity. (See paragraph (e) of this section.) We use this residual functional capacity assessment at both step four and at step five when we evaluate your claim at these steps. These are the five steps we follow:

(i) At the first step, we consider your work activity, if any. If you are doing substantial gainful activity, we will find that you are not disabled. (See paragraph (b) of this section.)

(ii) At the second step, we consider the medical severity of your impairment(s). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in § 416.909, or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. (See paragraph (c) of this section.)

(iii) At the third step, we also consider the medical severity of your impairment(s). If you have an impairment(s) that meets or equals one of our listings in appendix 1 to subpart P of part 404 of this chapter and meets the duration requirement, we will find that you are disabled. (See paragraph (d) of this section.)

(iv) At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. If you can still do your past relevant work, we will find that you are not disabled. See paragraphs (f) and (h) of this section and § 416.960(b).

(v) At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. If you can make an adjustment to other work, we will find that you are not disabled. If you cannot make an adjustment to other work, we will find that you are disabled. See paragraphs (g) and (h) of this section and § 416.960(c).

20 CFR § 416.920(a)(4). If DES determines the applicant to be disabled or not disabled at any step, the evaluation process stops at that point.

The Board of Hearings has “exclusive jurisdiction to hear appeals relating to the programs administered by the MassHealth agency...” 130 CMR 610.002. Among the grounds for an appeal

are “denial of an application or request for assistance, or the right to apply or reapply for such assistance...[and] individual MassHealth agency determinations regarding scope and amount of assistance.” 130 CMR 610.032(A)(1) and (5). An appellant bears the burden of proof at fair hearings “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 610.085(A).

In this case, at issue is whether the appellant has demonstrated, by a preponderance of the evidence, that he has met the standards to qualify as disabled for purposes of MassHealth eligibility. After reviewing the evidence, I find that he has not met that burden of proof. The DES evaluators waived Step 1 of the appellant’s evaluation. The review then proceeded to Step 2, which requires the evaluating agency, in this case DES, to determine whether the applicant’s physical or mental impairments are medically severe and meet the duration requirement of 20 CFR § 416.909. *See* 20 CFR § 416.920(a)(4)(iii). DES relies on federal regulations to determine whether an impairment is severe, which provide the following:

§ 416.922. What we mean by an impairment(s) that is not severe in an adult.

(a) *Non-severe impairment(s)*. An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities.

(b) *Basic work activities*. When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include—

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting.

20 CFR § 416.922. Furthermore, to satisfy the requirements of Step 2, that severe impairment “must have lasted or must be expected to last for a continuous period of at least 12 months.” 20 CFR § 416.909. Finally, to be considered disabled, an applicant must be following prescribed treatment. *See* 20 CFR § 416.922. Put otherwise, an applicant cannot stop abiding by a treatment plan intending to decompensate to be deemed eligible for services.

As it relates to the appellant, the MassHealth representative, a registered nurse, credibly testified that DES uses the strictest definition of severe in its interpretation of the regulations, and

described severity as symptoms that impact an individual's function. She distinguished between having trouble sleeping once per month from being unable to sleep any night. She also explained the difference between depression that makes someone sad versus depression which prevents someone from getting out of bed in the morning. The MassHealth representative contends that the medical records submitted demonstrate that the appellant is stable enough on his current treatment plan to allow him to continue to work. She conceded that the appellant's recent medical leave of absence due to a worsening of his psychological symptoms would likely meet the severity requirements of the regulations, but reported that this did not last for the continuous 12-month period. In sum, because the appellant's medical leave did not last for at least a year, his recent temporary deterioration still does not meet the requirements of Step 2.

The appellant's argument is sympathetic – he needs health insurance to afford his medications and access to his providers to prevent a worsening of his symptoms, and his insurance options outside of MassHealth are prohibitively expensive. However, this does not change that there is not sufficient evidence in the record to show the appellant's current condition meets the severity and duration criteria to move beyond Step 2 of the disability evaluation. Where the appellant's psychiatric symptoms, though undoubtedly prevalent, do not prevent him from working or otherwise living his life while he abides by his treatment plan, they are not severe enough to meet the requirements of Step 2. Thus, I find that the appellant has not met his burden of proof to demonstrate that the August 5, 2025, DES determination was made in error.

For the foregoing reasons, the appeal is hereby denied.

If, at any point, the appellant's condition worsens, he may file a new disability supplement and undergo a new evaluation. The appellant can direct any questions about Health Connector plans to 1-877-MA-ENROLL (1-877-623-6765), or inquiries concerning 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780

cc: Eileen Cynamon, RN, MassHealth Disability Evaluation Services