

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2513565
Decision Date:	12/22/2025	Hearing Date:	10/30/2025
Hearing Officer:	Cynthia Kopka	Record Open to:	11/6/2025

Appearance for Appellant:



Appearances for MassHealth:

Elizabeth Nickoson, Taunton MEC
Eileen Cynamon, BSN, RN, for DES



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Disability – 5 step
Decision Date:	12/22/2025	Hearing Date:	10/30/2025
MassHealth’s Reps.:	Elizabeth Nickoson, Eileen Cynamon	Appellant’s Rep.:	Pro se with parent
Hearing Location:	Taunton (virtual)	Aid Pending:	No

Authority

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

Jurisdiction

By notice dated September 4, 2025, MassHealth, through the University of Massachusetts Chan Medical School Disability Evaluation Services (DES), notified Appellant that she is not disabled as part of her request for Medicaid health benefits. Exhibit 1. Appellant filed this appeal on September 17, 2025. Exhibit 2. 130 CMR 610.015(B). Termination, modification, or denial of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth/DES determined that Appellant is not disabled for purposes of Medicaid eligibility.

Issue

The appeal issue is whether MassHealth/DES was correct in determining that Appellant is not disabled for purposes of Medicaid eligibility.

Summary of Evidence

MassHealth was represented at virtual hearing by an eligibility representative and a DES appeals reviewer. Appellant appeared at virtual hearing with her representative/parent. Documents submitted by both sides before and after both hearing dates are contained in the record. Exhibits 4-9. A summary of testimony and documentation follows.

Appellant is in her [REDACTED] in a household of five with her parents and siblings. Appellant's parents are joint tax filers. The household gross monthly income is \$9,649.27, which is 302.55% of the federal poverty level (FPL). No one in the household is eligible for MassHealth because the income is over 300% and the family has private insurance. Appellant had been previously determined to be disabled as a child in [REDACTED]. That status remained until [REDACTED] when Appellant was due for a redetermination on April 8, 2025. On January 8, 2025, MassHealth sent Appellant an adult disability supplement. On September 5, 2025, MassHealth received the decision from DES that Appellant is not disabled and therefore no longer qualified for MassHealth.

The MassHealth eligibility representative answered Appellant and her representative's questions regarding whether Appellant would qualify for MassHealth if she applied independently and not as part of the household. If Appellant was no longer a tax dependent, Appellant would qualify for MassHealth CarePlus as she has no income. She could also attest to being medically frail, which would upgrade her coverage type to MassHealth Standard.

The DES appeals reviewer explained that DES's role is to determine for MassHealth if an applicant meets the Social Security Administration (SSA) level of disability from a clinical standpoint. DES uses a five-step process, which comes from the SSA code of federal regulations to determine an applicant's disability status. See 20 CFR § 416.920; 20 CFR § 416.905; Exhibit 4 at 12, 21. The DES representative testified that under these regulations, disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months. The definition of disability also requires that the applicant have a severe impairment(s) that makes the applicant unable to do past relevant work or any other substantial gainful work that exists in the regional economy. According to the corresponding state regulation, 130 CMR 515.001, 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. *Id.* at 8.

The DES representative testified that, under 20 CFR § 416.945, what a person can still do despite an impairment is called his or her residual functional capacity (RFC). Unless an impairment is so severe that it is deemed to prevent an individual from doing substantial gainful activity, it is this RFC that is

used to determine whether the individual can still do past work or, in conjunction with age, education and work experience, any other work.

Appellant is now an adult over the age of [REDACTED]. She was originally approved for MassHealth Child Disability in [REDACTED] under MassHealth Child SSI listing 109.08 [REDACTED]. After Appellant was determined disabled as a child, MassHealth did not recommend reevaluations for disabled individuals while under the age of [REDACTED]. On April 24, 2025, Appellant submitted her MassHealth Adult Disability Supplement to DES. Appellant listed the following health problems on her Supplement: DM1 (noting a constant need to manage blood sugars, which impact her ability to perform daily functions) and degrading eyesight due to varying sugar levels. Appellant wrote that her DM1 impacts her ability to see and drive a car. *Id.* at 76-77.

Upon receiving the supplement, on May 8, 2025, DES faxed request for information letters to Appellant's current providers using the medical releases provided. *Id.* at 63-66. DES received records from Appellant's endocrinologist (*id.* at 471-513) but they were historic, with the most recent visit dated June 6, 2024. The DES representative testified that all records are reviewed and considered, but the focus is on the most recent records to show an accurate account of Appellant's current status. Based on the records, DES identified other diagnoses for consideration: bipolar disorder and social anxiety disorder. *Id.* at 81. The DES representative also added autoimmune thyroiditis, dyslipidemia and cannabis use disorder as part of the review. The DES representative testified that there was difficulty obtaining records from another of Appellant's provider, [REDACTED] causing delay in the review. The DES representative provided a timeline of the back-and-forth attempts to get the records, Exhibit 7 at 2-4. DES also received documents related to outpatient mental health treatment received between [REDACTED] *Id.* at 433-470. DES also received documents from 2020-2023. *Id.* at 134-428. The most recent record from June 2025 indicated that Appellant reported being stable and doing well at school. *Id.* at 99, 436. The record documented Appellant's history which included three inpatient psychiatric admissions in 2021. *Id.* at 439. The records illustrate the difficulty and importance of managing Appellant's medical conditions and their impact on her mental health. *Id.* The records also refer to Appellant's difficulty in making and attending appointments. *Id.* at 102, 438. Historical notes of the records show that at times, Appellant is not able to keep up with appointments and will go off her medications against medical advice. *Id.* at 445.

DES prescreened the mental health records, but they alone were not sufficient to approve the case without more information. Given the difficulty in obtaining the records from Appellant's provider, DES attempted to schedule Appellant for a medical consultative exam (CE). DES scheduled two medical CE appointments for Appellant and mailed scheduling notices. *Id.* at 50-51. 53. DES also made reminder calls the day prior to the appointment. *Id.* at 69-70. On the date of the first appointment, August 6, 2025, Appellant mistakenly believed she did not have to attend the first scheduled CE after producing her records. When the CE was rescheduled a month later on September 3, 2025, Appellant did not attend, mistaking the time of appointment. *Id.* Because Appellant missed the second appointment without good cause, DES determined that another CE

appointment would not be scheduled. *Id.* at 69.

Without the CE and sufficient evidence to evaluate Appellant's disability based on her diabetes, the reviewer focused on whether the psychiatric diagnoses alone would meet the disability criteria based on the existing documentation. If the documentation supported a finding of disabled, the review would stop. Otherwise, it would default back to a determination that the information provided was insufficient for full disability review, denying the application.

The DES representative explained that a review of the provided medical records was undertaken using a five-step sequential evaluation process, which addresses the following:

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

Step 2: Does the claimant have a medically determinable impairment or combination of medically determinable impairments that is both severe and meets the duration requirement (impairment(s) expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months)?

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

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

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

Step 1 was marked "No," as Appellant was a full time student pursuing her bachelor's degree in biology. *Id.* at 83. Appellant's past seasonal work as a lifeguard was not considered substantial gainful activity. *Id.* at 78-79. However, MassHealth waives Step 1 for purposes of determining disability at the state level. On the federal level, engaging in substantial gainful activity will stop the disability review in its entirety. *Id.* at 69-70.

For **Step 2**, the DES reviewer selected, "Yes," as Appellant's diabetes and bipolar disorder are chronic, life-long disorders that impact her daily life. Thus, Appellant's conditions met the severity and duration requirements.

For **Step 3**, Appellant's review was marked "No." The original reviewer and the appeal reviewer compared the Appellant's medical records to SSA listings found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App. 1. to see if Appellant met such criteria, specifically the adult listings for:

- 2.02 – Loss of Central Visual Acuity: (based on Appellant’s vision complaints related to her diabetes). There were no medical records provided related to vision problems.
- 4.02 – Recurrent Arrhythmias: (based on Appellant’s records showing autoimmune thyroiditis and dyslipidemia). The historical medical records provided indicated that Appellant is not being actively treated for these issues.
- 12.04 - Depressive, Bipolar and Related Disorders: The psychological records provided did not demonstrate that Appellant has an extreme limitation in one of, or marked limitation in two of, the following: understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; or adapt or manage oneself. *Id.* at 433-470.
- 12.06 - Anxiety and Obsessive-Compulsive Disorders: The psychological records provided did not demonstrate that Appellant has an extreme limitation in one of, or marked limitation in two of, the following: understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; or adapt or manage oneself. *Id.*

The DES representative testified that there is no separate listing for diabetes. The SSA removed the endocrinological listings because diabetes usually results in other significant organ issues with their own criteria. The DES representative testified when a specific diagnosis does not have its own listing, the reviewers try to find the closest match in the listing.

The DES representative testified that for Steps 4 and 5, DES must evaluate the claimant’s RFC and complete a vocational assessment. The DES representative explained that the RFC is the most the claimant can still do despite her limitations. At the time of the initial evaluation, the records were too old to complete a physical RFC. A Mental RFC prescreen, completed by [REDACTED] on July 15, 2025, indicated that Appellant can perform basic, unskilled work activity when considering moderate limitations in her ability to work at a consistent pace. *Id.* 91-92. No marked limitations were identified. *Id.* [REDACTED] noted that Appellant has a history of unstable mood, cutting, burning and inpatient care. She has, however, been able to graduate from high school, has completed three years of college, and worked during the summer. Appellant has been stable for the past year, while her compliance with treatment has been uneven. Due to Appellant’s psychological concerns, she will have at times a slight-to-moderate limitation in pace. *Id.* at 92. The reviewer completed a vocational assessment using the educational and work history reported on the client’s supplement and the Mental RFC pursuant to 20 CFR § 416.960. The 5-step review process continued to Step 4.

For **Step 4**, the reviewer found “No,” that Appellant is not able to perform past relevant work. *Id.* at 84. Appellant is an English communicating and literate college student with no current or past relevant work to evaluate. Appellant’s only work history is as a seasonal lifeguard, classified as semi-skilled work and would exceed her current Mental RFC of basic, unskilled work. The review continued to Step 5.

For **Step 5**, the reviewer selected, “Insufficient evidence to determine due to No Show CE(s) or Failure to Cooperate,” resulting in a determination of not disabled pursuant to Decision Code 252.

Again, the provider records were insufficient (lacked current objective clinical documentation) to fully evaluate reported impairments. The 5-step evaluation process concluded with a final review and endorsement of the disability determination by Physician Advisors (PAs) Manjul Shukla, MD, and John R. Pelletier, Sc.D. both on September 4, 2025. *Id.* at 81, 93. DES mailed a Disability Determination denial letter to the appellant dated September 4, 2025. *Id.* at 94, Exhibit 1. DES transmitted the decision to MassHealth on September 5, 2025. Exhibit 4 at 69. The DES representative pointed to 20 CFR § 416.916 and 416.918 to support the finding of not disabled based on insufficient evidence.

After the decision was made and present appeal filed, DES received records submitted for the present appeal on October 27, 2025 and compiled the records in one document, Exhibit 5 (Appendix A). Included in this submission were records from Appellant's endocrinologist from a visit on October 2, 2025. *Id.* at 5-15. The DES representative testified that this document was sufficient to develop the physical RFC, and DES would not have scheduled a CE if such a recent document with this information had been submitted with the initial releases.

After receiving the documents, the DES representative performed another review of Appellant's disability application. Exhibit 6 (Appendix B). The DES representative testified that there was no change in the determination made at **Steps 1, 2, or 3**. *Id.* at 7. For Step 3, the DES representative testified that the new medical records did not meet or equal SSI listings individually or considered in combination of impairments. No new listings were considered, as DM1 does not have its own listing.

For **Step 4**, a physical RFC was completed by [REDACTED] on October 29, 2025. According to [REDACTED] notes, Appellant has a long history of DM1 and recent examinations suggest her condition is well controlled with an A1C of 7.7. *Id.* at 4. The recent record showed that Appellant denied visual changes and had a benign examination without evidence of neuropathy. Sensation was intact. Appellant's thyroid disease was clinically euthyroid on examination; this condition was not expected to result in additional impairments at this time. *Id.* The RFC indicates that Appellant has no exertional limitations to work activity; with consideration to never climbing (ladders, scaffolding, etc.) and limiting environmental hazards (machinery, heights, etc.) related to diabetic risk of hypoglycemia. *Id.* at 2-4. There was no change to Step 4, as Appellant had no prior substantial gainful activity work to evaluate.

However, at **Step 5**, the determination changed to, "Yes," that Appellant can complete other work within her physical and mental RFC. The DES representative identified other occupations Appellant could perform within the state economy given her age, education, and RFCs, including: 5400 - Receptionists and Information Clerks (specifically a telephone quotation clerk); 5510 - Couriers and Messengers (tube operator); 5320 - Library Assistants, Clerical (page). *Id.* at 8, 10-11. The DES representative testified that she tried to select basic, unskilled jobs that are sedentary and are less forward-facing, given Appellant's social anxiety. Having found that Appellant could perform other work in the economy, DES determined that Appellant is not disabled, Code 231, pursuant to 20 CFR

§ 416.966.

During the hearing, the DES representative answered questions about why Appellant was considered disabled after she turned 18. The DES representative explained that during the Covid-19 public health emergency, disability reviews were halted. After the pandemic, DES reviewed cases at the direction of MassHealth. MassHealth rolled people through the redetermination process in stages because of how many people needed review. Appellant was at the tail-end of the post-pandemic review and maintained the disabled status during that time. The DES also explained the difference between a finding of child disability versus a finding of disability for adults. Massachusetts' criteria for approving disability as a child is not as strict as the federal government.

Appellant referred back to the mental RFC, Exhibit 4 at 91-92. Appellant argued that if she is in a depressive episode, she experiences more than just a slightly limited ability to do things such as concentrate in class. The DES representative testified that to be moderately or markedly limited in these areas, there needs to be the same level of impact for 12 months.

Appellant offered a prepared statement, Exhibit 8. Appellant testified that she lives with DM1, a lifelong condition that requires constant monitoring, medication, and emergency preparedness. Without proper support, Appellant's health and safety are at serious risk. Over summer when Appellant worked as lifeguard, she could not purchase her Dexcom continuous glucose monitor (CGM) and sensors because even with her primary insurance, the cost would have been between \$100-300 out of pocket. To avoid the stress and financial strain of making large medical purchases like these, Appellant chose to manually check blood sugar levels multiple times a day for several months. As a result, her A1C levels increased during that time, showing that her DM1 was not being managed as well as it should have been. Elevated A1C in diabetics can lead to various health issues in the long run. This method is less accurate and a lot more stressful. With the CGM, Appellant knows her blood sugar at all times. Without knowing her blood sugar, Appellant experiences stress over the unknown.

During these months. Appellant was actively trying to get her MassHealth reinstated so she could afford the tools she requires to stay healthy. Even now, Appellant has not been able to purchase syringes, alcohol swabs, and emergency low blood sugar prescriptions that MassHealth used to cover. Appellant argued that these are not optional supplies, but are critical for survival and daily functioning.

Appellant testified about how diabetes affects her daily life. If Appellant has a medical emergency at work, she may need to leave immediately or go home. This includes simply forgetting a backup pod if the one she is wearing expires, falls off, or has any other malfunction. At school, Appellant received accommodations during exams, including extra time, because her condition can interfere with my ability to concentrate or respond quickly. These accommodations exist because diabetes is recognized as a disability in educational settings.

Appellant requested that MassHealth reconsider its decision. Diabetes is not just a medical condition, but it is a disability that requires continuous care, monitoring, and access to life-saving tools. Without coverage, Appellant is forced to choose between health and financial stability. Appellant is doing everything she can to manage the condition, but needs support to do so safely and effectively. Appellant provided documentation of a medical bill and cancellation of an appointment due to expense. *Id.*

Appellant's representative testified that Appellant has been hospitalized in the past for both her diabetes and her mental health conditions. Appellant had to leave school for an entire year because of how difficult her conditions are to manage. Appellant's conditions can be fatal if not managed correctly. Appellant's status can change quickly from functional to requiring hospitalization. Appellant was having difficulty managing her conditions even when her MassHealth benefits were active. Appellant's mental and physical state were compromised most recently as this summer, when she was almost fired from her job. Appellant's representative emphasized the interaction of the physical and mental symptoms, as one impacts the other. If Appellant's DM1 is unstable, her mental health suffers and vice versa. Appellant's representative argued that Appellant's difficulty in scheduling and attending the CE and getting the proper paperwork to MassHealth illustrates Appellant's functional difficulties, particularly at a period when she was unable to afford her diabetes supplies over the summer. Appellant's A1C levels went up over the summer. Appellant's representative argued that the parts of Appellant's medical record that related to doctor's orders and plan are long, complex, and hard to follow.

In response to Appellant's prepared statement submitted during the record open period, the DES reviewer responded that the review of all the records, both submitted prior to the initial determination and during the appeal process, confirm Appellant's diagnosis of DM1. The open record submission does not include new objective clinical records (such as test results, diagnostic exam findings, or detailed doctor's notes on functional limitations) or describe any new impairments that would require an additional evaluation. The DES representative stated that SSA determines eligibility based on whether a medically determinable impairment prevents an individual from performing work. MassHealth does not consider the financial cost of medical treatment in this clinical disability evaluation. Based on the total available evidence, the appeal review reaffirms the determination that Appellant is not medically eligible for disability benefits under Title XVI. Exhibit 9.

Findings of Fact

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

1. On September 4, 2025, MassHealth notified Appellant that DES determined that she is not disabled as part of her request for Medicaid health benefits. Exhibit 1.

2. Appellant filed a timely appeal on September 17, 2025. Exhibit 2.
3. Appellant is in her [REDACTED] in a household of five, and a tax dependent of her parents. The household gross monthly income is \$9,649.27. The family has private insurance.
4. In 2025, 100% of the FPL for a household of five was \$3,138 monthly and \$37,656 yearly; 133% of the FPL was \$4,173 monthly and \$50,076 yearly.
5. Appellant was determined disabled as a child in [REDACTED] under MassHealth Child SSI listing 109.08 Juvenile Diabetes Mellitus. Appellant was not directed to undergo redetermination until January 8, 2025, when MassHealth mailed Appellant an adult disability supplement to complete.
6. On April 24, 2025, Appellant submitted the supplement to MassHealth/DES. Appellant listed the following health problems on the supplement: DM1 (noting a constant need to manage blood sugars, which impact her ability to perform daily functions) and degrading eyesight due to varying sugar levels. Appellant wrote that her DM1 impacts her ability to see and drive a car. Exhibit 4 at 76-77.
7. Having not received sufficient documentation to determine disability, MassHealth/DES scheduled two CE appointments for Appellant. Appellant did not attend the appointments. *Id.* at 69-70.
8. MassHealth/DES requested and obtained medical documentation using the medical releases Appellant provided and reviewed additional clinical records submitted as part of the appeal process, including records submitted on October 27, 2025 referring to an October 2, 2025 visit. Exhibit 5.
9. Based on the records, MassHealth/DES identified other diagnoses for consideration: bipolar disorder, social anxiety disorder, autoimmune thyroiditis, dyslipidemia and cannabis use disorder. Exhibit 4 at 81.
10. Step 1 of the 5-step review is waived by MassHealth/DES regardless of the claimant's work status.
11. MassHealth/DES marked Step 2 as "yes," determining that Appellant has a medically determinable impairment or combination of impairments that is both severe and meets the duration requirement (impairment(s) is expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months). *Id.* at 83.
12. MassHealth/DES marked Step 3 as "no," having determined that Appellant does not meet

or equal applicable adult SSA listings: 2.02 – Loss of Central Visual Acuity, 4.02 – Recurrent Arrhythmias, 12.04 - Depressive, Bipolar and Related Disorders, and 12.06 - Anxiety and Obsessive-Compulsive Disorders. *Id.* at 83-90.

13. A Mental RFC prescreen, completed by [REDACTED] on July 15, 2025, indicated that Appellant can perform basic, unskilled work activity when considering moderate limitations in her ability to work at a consistent pace. *Id.* 91-92. No marked limitations were identified. *Id.*
14. [REDACTED] noted that Appellant has a history of unstable mood, cutting, burning and inpatient care. She has, however, been able to graduate from high school, has completed three years of college, and worked during the summer. Appellant has been stable for the past year, while her compliance with treatment has been uneven. Due to Appellant's psychological concerns, she will have at times a slight-to-moderate limitation in pace. *Id.* at 92.
15. A physical RFC completed by [REDACTED] on October 29, 2025, indicates that Appellant has no exertional limitations to work activity; with consideration to never climbing (ladders, scaffolding, etc.) and limiting environmental hazards (machinery, heights, etc.) related to diabetic risk of hypoglycemia. Exhibit 6 at 2-4.
16. [REDACTED] noted that Appellant has a long history of DM1 and recent examinations suggest her condition is well controlled with an A1C of 7.7. The recent record showed that Appellant denied visual changes and had a benign examination without evidence of neuropathy. Sensation was intact. Appellant's thyroid disease was clinically euthyroid on examination; this condition was not expected to result in additional impairments at this time. *Id.* at 4.
17. For Steps 4 and 5, DES completed a vocational assessment using the educational and work history reported on the client supplement and the RFC(s).
18. For Step 4, MassHealth/DES marked "no," that Appellant is not able to perform past relevant work. Appellant is an English communicating and literate college student with no current or past relevant work to evaluate. Appellant's only work history is as a seasonal lifeguard, classified as semi-skilled work and would exceed her current Mental RFC of basic, unskilled work. Exhibit 4 at 84.
19. For Step 5, DES originally marked "Insufficient evidence to determine due to No Show CE(s) or Failure to Cooperate." *Id.* at 84.
20. After reviewing documents submitted for the appeal, the determination changed to, "Yes," that Appellant can complete other work within her physical and mental RFC. Exhibit 6 at 8

21. The DES representative identified other occupations Appellant could perform within the state economy given her age, education, and RFCs, including: 5400 - Receptionists and Information Clerks (specifically a telephone quotation clerk) ; 5510 - Couriers and Messengers (tube operator); 5320 - Library Assistants, Clerical (page). *Id.* at 8, 10-11.

Analysis and Conclusions of Law

Disability determination

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

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

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

(a) The condition of an individual, ■ 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.

The guidelines used by MassHealth to establish disability are the same as those used by the Social Security Administration. Disability is established by (a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB); (b) a determination of disability by the SSA; or (c) a determination of disability by the Disability Evaluation Services (DES). 130 CMR 505.002(E)(2). Individuals who meet the Social Security Administration's definition of disability may establish eligibility for MassHealth Standard according to 130 CMR 505.002(E) or CommonHealth

according to 130 CMR 505.004. Title XVI of the Social Security Act establishes the eligibility standards and the five-step sequential evaluation process (set forth in the summary *infra*). 20 CFR § 416.920. If a determination of disability can be made at any step, the evaluation process stops at that point.

Step 1 considers whether the applicant is involved in any substantial gainful activity. For MassHealth eligibility purposes, this step is waived. The review proceeds to Step 2, which determines whether the applicant has a severe impairment. To be considered severe, a medically determinable physical or mental impairment must: (1) limit the individual's ability to perform basic work activities; and (2) be expected to result in death or have lasted or be expected to last for a continuous period of not less than 12 months. Here, DES reviewed Appellant's history of DM1 and bipolar disorder and determined that these impairments are severe and have lasted, or are expected to last, at least 12 months. As Appellant's reported impairments meet Step 2, the review proceeds to Step 3.

Step 3 requires the reviewer to determine whether the impairment(s) meet certain criteria found in the federal *Listing of Impairments* at 20 CFR Ch. III, Pt. 404, Subpt. P, App. 1. DES reviewed Appellant's case in light of the various impairments and determined that Appellant did not meet the Listings 2.02 – Loss of Central Visual Acuity, 4.02 – Recurrent Arrhythmias, 12.04 - Depressive, Bipolar and Related Disorders, and 12.06 - Anxiety and Obsessive-Compulsive Disorders. There does not appear to be any error in DES's determination of step 3. Records submitted as part of the hearing record, specifically regarding the mental health aspects of Appellant's ailments, indicated that Appellant's status has been stable since her hospitalizations in [REDACTED] and Appellant has been able to complete high school and three years of college. Additionally, there is no listing specifically for DM1. Appellant's autoimmune thyroiditis was not expected to result in additional impairments, and there were no documented vision complaints in the records.

The five-step process requires the review to proceed to Step 4 to examine Appellant's residual functional capacity (RFC) using the Social Security Administration's *Medical Vocational Guidelines* (20 CFR Ch. III, Pt. 404, Subpt. P, App. 2) to determine whether Appellant is able to perform previous work. Here, the physician reviewer determined that Appellant has no exertional limitations to work activity except needing to avoid climbing and environmental hazards. Appellant's mental RFC indicates she is capable of performing basic unskilled work with accommodations for pace. Appellant is not currently working and even though her prior experience as a lifeguard was seasonal and not technically considered substantial gainful activity, the job of lifeguard is considered skilled work outside of Appellant's capabilities on the RFC. Therefore, Step 4 was correctly marked "no." However, under Step 5, MassHealth/DES identified at least three other occupations available in the state economy that not only fit Appellant's age, education, and RFC, but also consider her social anxiety. Therefore, MassHealth/DES determined that Appellant is not disabled for purposes of MassHealth eligibility.

Appellant argued credibly that she has experiences difficulty concentrating and performing her

job well when her DM1 is improperly managed or if she is in a depressive episode. Appellant has required accommodations in school because her DM1 is disabling and impacts her pace and ability to concentrate. Appellant also has argued that the stress and financial strain of not having MassHealth secondary coverage to pay for her DM1 supplies has negatively impacted her health and her ability to work. Under the federal regulations, an applicant for disability must follow prescribed treatment to be considered disabled. 20 CFR § 416.930. Appellant offered rational, credible testimony about her struggles, but did not specifically refute DES's findings regarding her functional capacity as it presents consistently over a 12 month period.

The result of this determination is not an attempt to minimize Appellant's struggles, nor is it a rejection of DM1 or bipolar disorder as disabling conditions. The narrow focus of this appeal is whether Appellant's presentation based on the clinical record meets the strict definition of permanent and total disability as set forth in state and federal law. While Appellant's testimony is credible and understandable, it is insufficient to prove that MassHealth/DES erred in its finding that Appellant is not disabled under MassHealth program rules, as derived from the federal Social Security Act.

Financial eligibility

MassHealth regulations at 130 CMR 505.000 *et seq.* explain the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and calculation of financial eligibility are detailed in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. In order to establish eligibility for MassHealth benefits, applicants must meet both the categorical and financial requirements. MassHealth determines financial eligibility based on an applicant's modified adjusted gross income. MassHealth takes the countable income, which includes earned income as described in 130 CMR 506.003(A) and unearned income described in 130 CMR 506.003(B) and subtracts deductions described in 130 CMR 506.003(D). 130 CMR 506.007. An adult under the age of 64 is eligible for MassHealth CarePlus if their income at or below 133% of the FPL. 130 CMR 505.008(A)(2)(c).

Here, Appellant's monthly household income is \$9,649.27. This is higher than the 133% limit to qualify for MassHealth CarePlus or MassHealth Standard. Accordingly, Appellant's income is too high for Appellant to be eligible for a MassHealth benefit as part of the household of five. If Appellant's parents no longer claimed her as a tax dependent, she could apply for MassHealth individually. With no income, she would qualify for MassHealth CarePlus.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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

Disability Contractor – UMASS