

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2155402
Decision Date:	9/27/2021	Hearing Date:	08/27/2021
Hearing Officer:	Christine Therrien		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Meghan Serell, Pharm.D., R.Ph.



*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:	DUR
Decision Date:	9/27/2021	Hearing Date:	08/27/2021
MassHealth's Rep.:	Meghan Serell, Pharm. D., R. Ph.	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South		

Authority

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

Jurisdiction

Through notice dated 6/21/2021 MassHealth denied the appellant's request for prior authorization for Cleocin (130 CMR 450.204 and Exhibit 1). The appellant filed this appeal in a timely manner on 7/12/2021 (130 CMR 610.015 and Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's request for prior authorization Cleocin.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 450.204, in denying the appellant's request for prior authorization for Cleocin.

Summary of Evidence

A MassHealth representative from the UMass Drug Utilization Review Program (DUR) submitted into evidence a PA request for the prescription drug Cleocin (Exhibit 1). The PA, dated 6/21/2021, states the Cleocin was prescribed to treat the appellant's bacterial vaginosis (Exhibit 1, p. 3-5). The MassHealth representative testified that this PA was denied on 6/21/2021 because there are more cost-effective alternatives including generic oral metronidazole tablets, metronidazole 0.75% vaginal gel, and

clindamycin 2% vaginal cream (Exhibit 1, p. 6). On 8/16/2021, MassHealth requested additional information from the appellant that included documentation that she had tried metronidazole 0.75% vaginal gel or oral tablets, or clindamycin 2% vaginal cream and that they did not work or caused unacceptable side effects (Exhibit 1, p. 13). The appellant did not supply any supporting documentation. The MassHealth representative testified that the appellant filled prescriptions for clindamycin 2% twice since the PA was submitted on 6/21/2021.

The appellant testified that she did not know what medication she has tried, but she wanted to be reimbursed for the Cleocin because she paid for it and it was expensive. The appellant hung up before the hearing was concluded.

Findings of Fact

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

1. A MassHealth representative from the UMass Drug Utilization Review Program (DUR) submitted into evidence a PA request for the prescription drug Cleocin (Exhibit 1).
2. The PA, dated 6/21/2021, states the Cleocin was prescribed to treat the appellant's bacterial vaginosis (Exhibit 4, p. 3-5).
3. The PA was denied on 6/21/2021 because there are more cost-effective alternatives including generic oral metronidazole tablets, metronidazole 0.75% vaginal gel, and clindamycin 2% vaginal cream (Testimony and Exhibit 4, p. 6).
4. On 8/16/2021, MassHealth requested additional information from the appellant that included documentation that she had tried metronidazole 0.75% vaginal gel or oral tablets, or clindamycin 2% vaginal cream and that they did not work or caused unacceptable side effects (Exhibit 1, p. 13).
5. The appellant did not supply any supporting documentation per the 8/16/2021 request.
6. The appellant filled prescriptions for clindamycin 2% twice since the PA was submitted on 6/21/2021 (Testimony).
7. The appellant hung up before the hearing was concluded.

Analysis and Conclusions of Law

Pursuant to 130 CMR 450.204, MassHealth will not pay a provider for services that are not medically necessary; and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

- (A) A service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider, or identified by the Division pursuant to a prior authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

The MassHealth Therapeutic drug list for Topical Antibacterials lists several preferred vaginal antibiotics.¹ The Evaluation Criteria for Approval for drugs listed on Table 41: Topical Antibacterial states:

In the case where the prior authorization (PA) status column indicates PA, both the brand and generic (if available) require PA. Typically, the generic is preferred when available unless the brand-name drug appears on the MassHealth Brand Name Preferred Over Generic Drug List. In general, when requesting the non-preferred version, whether the brand or generic, the prescriber must provide medical records documenting an inadequate response or adverse reaction to the preferred version, in addition to satisfying the criteria for the drug itself.

(Exhibit 1, p. 19-20).

The appellant did not provide medical records needed to meet the requirements established by MassHealth for prior authorization of the non-preferred drug Cleocin. MassHealth records show the appellant filled a prescription for clindamycin 2%, a preferred drug, twice since the PA was submitted. This appeal is denied.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

¹ Therapeutic Drug List for Antibiotics Table 41: Topical can be found at:
<https://mhd1.pharmacy.services.conduent.com/MHDL/pubtheradetail.do?id=41>

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.

Christine Therrien
Hearing Officer
Board of Hearings

cc: UMMS Drug Utilization Review, Commonwealth Medicine