

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2176378
Decision Date:	11/04/2021	Hearing Date:	10/22/2021
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:




Appearance for MassHealth:

Laura Rose



*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:	Approved	Issue:	Prior Authorization
Decision Date:	11/04/2021	Hearing Date:	10/22/2021
MassHealth's Rep.:	Laura Rose	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone	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 2, 2021, MassHealth modified the appellant's prior authorization request for Home Health Services. (Exhibit 1; 130 CMR 450.204; 130 CMR 403.410). The appellant filed this appeal in a timely manner on August 18, 2021. (130 CMR 610.015(B); Exhibit 2). A hearing was scheduled for October 6, 2021. (Exhibit 3). On September 14, 2021, the appellant's representative contacted the Board of Hearings with a request to reschedule. The request was approved, and a hearing was scheduled for October 22, 2021. (Exhibit 3; Exhibit 4).

A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for Home Health Services.

Issue

Whether MassHealth was correct in modifying the appellant's prior authorization request for Home Health Services.

Summary of Evidence

The appellant has the following diagnoses: anxiety disorder, deaf, non-speaking, chronic pain, hypertension, moderate persistent asthma with acute exacerbation, other forms of dyspnea, chest pain, cocaine abuse, myocardial infarction and takotsubo syndrome. (Testimony; Exhibit 5). Records show the appellant has demonstrated and expressed: anxiety, depressed mood, impaired decision-making, poor coping skills and a poor home environment. (Testimony; Exhibit 5). The appellant has an extensive history of alcohol and drug abuse and lives in a rooming house with a significant other who also has a history of alcohol and drug abuse.

The appellant's Home Health Service provider, Horizon Home Care, LLC, submitted a prior authorization request for Skilled Nursing Visits (SNV) one time each week and Medication Administration Visits (MAV) six times each week from July 30, 2021 to January 28, 2022. (Testimony; Exhibit 5). MassHealth modified this request and approved: one SNV each week and four MAV each week from July 30, 2021 to November 26, 2021. (Testimony; Exhibit 5).

The MassHealth representative testified that the records presented do not show a history of noncompliance in taking pre-poured medications, no signs of decompensation, no hospitalizations and no acute changes. MassHealth made the modifications due to the appellant's compliance in taking pre-poured medications and a positive medical history. (Testimony; Exhibit 5). The MassHealth representative testified that the appellant is authorized 3 PRN/as needed SNV during the authorization period which can be utilized if the appellant begins to show decompensation or noncompliance.

The appellant's representative testified that the appellant requires visits 7 days each week due to a number of factors including her history of drug and alcohol abuse, inability to effectively communicate and difficulty in processing information. The appellant has no sign-language training and uses a whiteboard to communicate. The appellant's representative testified that the appellant does not have support from family or friends and her boyfriend's drug and alcohol abuse is more severe than that of the appellant. When the medications are pre-poured, the appellant is left with reminders. The appellant's representative testified that current consistency is due to daily support and direction. The

appellant's representative testified that the appellant has been receiving nursing services 7 days each week since 2017 due to her complexities.

Records state that the appellant remains unable to manage medications on her own due to a knowledge deficit, anxiety, medication confusion and a history of noncompliance. (Testimony; Exhibit 5). The appellant also receives evaluations of her mental status and safety each day. The appellant's representative testified that the appellant has not had any recent hospitalizations due to the daily visits. Additionally, the appellant's complications with communication and current living situation make daily visits necessary. The appellant has some medications left out and is generally compliant, but this is due to the daily visits and reminders provided by the nursing staff. The appellant has tried to get into an adult day health program but has not been able to successfully find one to accommodate all her needs. Additionally, the appellant has difficulty in scheduling and attending medical appointments due to her limitations in communication. The appellant's representative testified that daily visits are necessary to ensure the appellant remains healthy and safe.

Findings of Fact

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

1. The appellant has the following diagnoses: anxiety disorder, deaf, non-speaking, chronic pain, hypertension, moderate persistent asthma with acute exacerbation, other forms of dyspnea, chest pain, cocaine abuse, myocardial infarction and takotsubo syndrome.
2. The appellant has demonstrated and expressed: anxiety, depressed mood, impaired decision-making, poor coping skills and a poor home environment.
3. The appellant has an extensive history of alcohol and drug abuse and lives in a rooming house with a significant other who also has a history of alcohol and drug abuse.
4. The appellant has no sign-language training and uses a whiteboard to communicate.
5. The appellant has a knowledge deficit, medication confusion and a history of noncompliance.

6. The appellant requested: Skilled Nursing Visits (SNV) one time each week and Medication Administration Visits (MAV) six times each week from July 30, 2021 to January 28, 2022.
7. MassHealth approved: SNV one time each week and MAV four times each week from July 30, 2021 to November 26, 2021.
8. MassHealth approved 3 PRN/as needed SNV during the authorization period.
9. Some medications are pre-poured and left with reminders for the appellant.
10. The appellant has been receiving nursing services 7 days each week since 2017 due to her complexities.
11. The appellant has not been able to successfully find an adult day health program to accommodate all her needs.
12. The appellant has difficulty scheduling and attending medical appointments due to her limitations in communication.

Analysis and Conclusions of Law

MassHealth pays for the following Home Health Services for eligible members, subject to the restrictions and limitations described in 130 CMR 403.000 and 450.000:

- (A) Nursing;
- (B) Home Health Aide; and
- (C) Physical, Occupational, and Speech/Language Therapy.

Without prior authorization, MassHealth will not pay providers for certain Home Health Services. (130 CMR 403.410(A)(1)). Prior authorization determines only the medical necessity of the authorized service. (130 CMR 403.410(A)(2)). Prior authorization for any and all home health skilled nursing services is required whenever the services provided exceed one or more of the following PA requirements:

- (a) more than 30 intermittent skilled nursing visits in a 90 day period;
- (b) more than 240 home health aide units in a 90 day period; or
- (c) more than 30 medication administration visits in a 90 day period

The appellant's request for more than 30 medication administration visits in a 90 period required prior authorization. (130 CMR 403.410(B)(5)).

Nursing services are payable only if all of the following conditions are met:

- (1) there is a clearly identifiable, specific medical need for nursing services;
- (2) the services are ordered by the physician for the member and are included in the plan of care;
- (3) the services require the skills of a registered nurse or of a licensed practical nurse under the supervision of a registered nurse, in accordance with 130 CMR 403.415(B);
- (4) the services are medically necessary to treat an illness or injury in accordance with 130 CMR 403.409(C); and
- (5) prior authorization is obtained where required in compliance with 130 CMR 403.410.

The need for nursing services also has to meet the following clinical criteria:

- (1) A nursing service is a service that must be provided by a registered nurse, or by a licensed practical nurse under the supervision of a registered nurse, to be safe and effective, considering the inherent complexity of the service, the condition of the member, and accepted standards of medical and nursing practice.
- (2) Some services are nursing services on the basis of complexity alone (for example, intravenous and intramuscular injections, or insertion of catheters). However, in some cases, a service that is ordinarily considered unskilled may be considered a nursing service because of the patient's condition. This situation occurs when only a registered nurse or licensed practical nurse can safely and effectively provide the service.
- (3) When a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse, the service is not considered a nursing service, unless there is no one trained, able, and willing to provide it.

- (4) Nursing services for the management and evaluation of a plan of care are medically necessary when only a registered nurse can ensure that essential care is effectively promoting the member's recovery, promoting medical safety, or avoiding deterioration.
- (5) Medical necessity of services is based on the condition of the member at the time the services were ordered, what was, at that time, expected to be appropriate treatment throughout the certification period, and the ongoing condition of the member throughout the course of home care.
- (6) A member's need for nursing care is based solely on his or her unique condition and individual needs, whether the illness or injury is acute, chronic, terminal, stable, or expected to extend over a long period.
- (7) Medication Administration Visit. A skilled nursing visit for the sole purpose of administering medication may be considered medically necessary when the member is unable to perform the task due to impaired physical, cognitive, behavioral, and/or emotional issues, no able caregiver is present, the member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition, and/or the task of the administration of medication, including the route of administration, requires a licensed nurse to provide the service. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication.

The parties did not dispute the need or overall necessity for nursing services, only the number of Medication Administration Visits.

The regulations governing MassHealth define a service as "medically necessary" if 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. (130 CMR 450.204(A)). Medically necessary services must be substantiated by records including evidence of such medical necessity and quality. (130 CMR 450.204(B)). A provider must make those records available to MassHealth upon request. (130 CMR 450.204(B)).

The records presented by MassHealth and testimony presented by the appellant's representative regarding the complexities of the appellant's care

demonstrate that the services requested are medically necessary. The appellant's representative effectively argued that the appellant inability to perform the task of taking medications on her own is due to her impaired physical, cognitive, behavioral and emotional issues, and no able caregiver is present. Additionally, the appellant's difficulty in accessing other services, such as adult day health services and scheduling and appearing at medical appointments, demonstrates the complexities of her condition and limitations in self-care. The records do not indicate that the appellant's need will likely change during the authorization period requested.

This appeal is approved to ensure the appellant receives services necessary to prevent the worsening of her current condition for the period requested.

Order for MassHealth

Approve the appellant's prior authorization request for Home Health Services from July 30, 2021 to January 28, 2022.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Optum MassHealth LTSS, P.O. Box 159108, Boston, MA 02215

