

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Remand Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2177448 - Remand
<b>Remand Decision Date:</b>	6/2/2023	<b>Remand Hearing Date:</b>	04/28/2023
<b>Hearing Officer:</b>	Christopher Jones	<b>Record Open to:</b>	06/02/2023

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Phuong Luc, Pharm.D.



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

## REMAND APPEAL DECISION

<b>Remand Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Prior Authorization – Pharmaceuticals
<b>Remand Decision Date:</b>	6/2/2023	<b>Remand Hearing Date:</b>	04/28/2023
<b>MassHealth’s Rep.:</b>	Phuong Luc, Pharm.D.	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	No

### Procedural Background

On or around October 6, 2021, MassHealth approved the appellant’s prior authorization request for “GENOTROPIN MINIQICK 0.4 MG.” (Exhibit 5.2.) The appellant filed an appeal on September 28, 2021. (Exhibit 5.33; 130 CMR 610.015(B).) On December 8, 2021, the Board of Hearings dismissed the appeal in part because the appellant did not raise a substantive dispute regarding MassHealth’s approval notice and denied the appellant’s requested relief that MassHealth treat him differently than it would another member in his position. The decision further dismissed as untimely the appellant’s allegation that he was denied reimbursement for Norditropin more than six months before he filed an appeal with the Board of Hearings and alternatively denied the requested reimbursement. (Exhibit 3, p. 6, n. 9.)

The appellant sought judicial review, and on March 30, 2023 the Superior Court issued a Memorandum of Decision and Order remanding the matter to consider the appellant’s proof of payment of out-of-pocket expenses that meet the requirements of 130 CMR 520.015(C). (Exhibit 2.) A hearing on the remand order was held on April 28, 2023. (Exhibit 1.)

Because MassHealth’s DUR unit had not received a copy of the Memorandum of Decision and Order prior to the remand hearing, the record was left open until May 10 for MassHealth to review and respond. Following this review, MassHealth agreed to reimburse the appellant for the \$9,115.08 that he paid for Norditropin out-of-pocket.<sup>1</sup> The record open period was extended to

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<sup>1</sup> MassHealth’s opinion is that individuals in the appellant’s position are not generally eligible for reimbursement, but given the language of the remand order, reimbursement would be authorized in this instance.

June 7, 2023 for the appellant to confirm receipt of the check. He did so on June 1, 2023 and the record was closed. (Exhibit 12.)

As the sole issue in dispute on remand was “MassHealth’s refusal to reimburse [the appellant] for the \$9,115.08 he paid in out-of-pocket prescription drug costs for Norditropin between June 5, 2020 and February 4, 2021,” this appeal is DISMISSED.

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Christopher Jones  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: UMMS Drug Utilization Review, Commonwealth Medicine, 333 South Street, Shrewsbury, MA 01545  
MassHealth’s Attorney: Timothy Hoitink, - Legal