

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2177747
Decision Date:	12/15/2021	Hearing Date:	11/19/2021
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Laura Rose, RN *via telephone*



*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:	HHA
Decision Date:	12/15/2021	Hearing Date:	11/19/2021
MassHealth's Rep.:	Laura Rose, RN	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South Tower	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 September 20, 2021, MassHealth modified the appellant's prior authorization (PA) request for services under the Home Health Agency program because MassHealth determined the clinical documentation submitted on his behalf did not demonstrate that he needed all the services/treatment requested. (See 130 CMR 450.204(A)(1) and Exhibit 1). The appellant filed this appeal in a timely manner on October 9, 2021. (See 130 CMR 610.015(B) and Ex. 2). Modifications to a PA request are valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's PA request for home health services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 450.204(A)(1) and 403.000 *et seq*, in determining that the PA request should be modified.

Summary of Evidence

The appellant is an individual under the age of 65 with a primary diagnosis of type 2 diabetes mellitus with hyperglycemia. (Ex. 4, p 7). The provider requested one skilled nursing visit (SNV) per week, 2 medical administration visits (MAVs) per week, three "as needed" SNVs, and two hours of home health aide (HHA) services per day, seven days per week. (Ex. 4, p. 7a). In the notice dated

September 20, 2021, MassHealth approved the times requested for SNVs (both weekly and as needed) and MAVs. MassHealth modified the appellant's HHA hours from two hours to one hour per day, seven days per week. (Ex. 1; Ex. 4, pp. 4-6).

The records show that the provider requested 20 minutes for bathing, 20 minutes for dressing, 20 minutes for grooming, 30 minutes for eating, and 30 minutes of "other minutes" for a total of 120 minutes per day of HHA services. (Ex. 4, p. 9). MassHealth authorized 15 minutes for bathing, 15 minutes for dressing, 10 minutes for grooming, 0 minutes for eating and drinking, and 0 minutes for "other minutes" for a total of 40 minutes. (Id.). The MassHealth representative stated that MassHealth rounded this number up to one hour per day of HHA services in its PA letter. (Ex. 1; Ex. 4, pp. 4-6). The MassHealth representative stated that the HHA notes indicated that the HHA was also performing light housekeeping and making the bed daily, changing the linens on a weekly basis, and taking the appellant to appointments. (Ex. 4, pp. 91-102). The MassHealth representative referred to the Guidelines for Medical Necessity Determination for Home Health Services, which states that MassHealth does not pay for homemaker, respite, or chore services. (Ex. 4, p. 112). The MassHealth representative continued by stating that services incidental to the delivery of health-related personal care, such as light cleaning, preparing a meal, or removing trash, do not meet the definition of a home-health aide service. (Id.).

The MassHealth representative stated that the services provided through the Home Health Agency Program are mostly limited to hands on assistance with ADLs. The MassHealth representative stated that the appellant may want to investigate services through the Personal Care Attendant (PCA) Program, which allow for compensation for a wider range of activities such as housekeeping, meal preparation, and laundry.

The appellant testified that he needed the extra hour of service from his home health aide. The appellant stated that he was confused and thought PCA and HHA were the same. The MassHealth representative gave the appellant the number for two agencies local to the appellant that would provide the appellant with an assessment for PCA. The MassHealth representative stated that the appellant could retain his HHA as a PCA.

Findings of Fact

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

1. The appellant is an individual under the age of 65 with a primary diagnosis of type 2 diabetes mellitus with hyperglycemia. (Ex. 4, p 7).
2. In addition to time for nursing visits, the provider requested two hours of HHA services per day, seven days per week broken down as follows: 20 minutes for bathing, 20 minutes for dressing, 20 minutes for grooming, 30 minutes for eating, and 30 minutes of "other minutes" for a total of 120 minutes per day of HHA services. (Ex. 4, pp. 7, 9).
3. In a notice sent to the appellant on September 20, 2021, MassHealth approved all the time requested for nursing visits and authorized 1 hour of HHA services per day broken down as follows: 15 minutes for bathing, 15 minutes for dressing, 10 minutes for grooming, 0

minutes for eating and drinking, and 0 minutes for “other minutes” for a total of 40 minutes. (Ex. 1; Ex. 4, pp. 4-6, 9).

4. MassHealth rounded this number up to one hour per day of HHA services in its PA letter. (Ex. 1; Ex. 4, pp. 4-6).
5. The HHA notes indicated that the HHA was also performing light housekeeping and making the bed daily, changing the linens on a weekly basis, and taking the appellant to appointments. (Ex. 4, pp. 91-102).
6. The Guidelines for Medical Necessity Determination for Home Health Services state that MassHealth does not pay for homemaker, respite, or chore services. (Ex. 4, p. 112).
7. Services incidental to the delivery of health-related personal care, such as light cleaning, preparing a meal, or removing trash, do not meet the definition of a home-health aide service. (Ex. 4, p. 112).

Analysis and Conclusions of Law

MassHealth does not pay a provider for services that are not medically necessary. (130 CMR 403.409(C); 130 CMR 450.204). A service is considered medically necessary if it:

- (1) corrects, or cures 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 MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

(130 CMR 450.204(A)).

In order to provide skilled nursing and home health aide services beyond certain limits¹, a home health agency must obtain prior authorization to determine the medical necessity of the requested services. (130 CMR 403.410(A)(1), (2)). Home health aide services are payable only under the following conditions:

- (1) home health aide services are medically necessary and are provided pursuant to skilled nursing or therapy services;
- (2) the frequency and duration of the home health aide services must be ordered by the

¹ More than 30 intermittent skilled nursing visits, more than 240 home health aide units, and/or more than 30 medication administration visits in a 90-day period. (130 CMR 403.410(B)(5)).

- physician and must be included in the plan of care for the member;
- (3) the services are medically necessary to provide personal care to the member, to maintain the member's health, or to facilitate treatment of the member's injury or illness;
 - (4) prior authorization, where applicable, has been obtained where required in compliance with 130 CMR 403.410; and
 - (5) the home health aide is supervised by a registered nurse...for skilled nursing services...employed or contracted by the same home health agency as the home health aide...

(130 CMR 403.416(A)).

These services include, but are not limited to:

- (1) personal-care services; such as bathing, dressing, grooming, caring for hair, nail, and oral hygiene, which are needed to facilitate treatment or to prevent deterioration of the member's health, changing the bed linen, shaving, deodorant application, skin care with lotions and/or powder, foot care, ear care, feeding, assistance with elimination, routine catheter care, and routine colostomy care;
- (2) simple dressing changes that do not require the skills of a registered or licensed nurse;
- (3) medication reminders for medications that are ordinarily self-administered and that do not require the skills of a registered or licensed nurse;
- (4) assistance with activities that are directly supportive of skilled therapy services; and
- (5) routine care of prosthetic and orthotic devices.

(130 CMR 403.416(B)).

Homemaker, respite, or chore services, however, are not payable under the Home Health Agency Program. (130 CMR 403.415(C)).

The appellant has not shown by a preponderance of the evidence that four hours of HHA services are medically necessary. The provider requested 40 minutes of services that were well documented in the HHA notes. MassHealth approved one hour of HHA services in the notice dated September 20, 2021. The provider requested a further time for "other" services. The HHA notes indicate that these consisted of non-covered services such as light housekeeping, making the bed daily, changing the linens on a weekly basis, and taking the appellant to appointments. Although the appellant may need help with housekeeping and cleaning, these types of activities are not compensable under this program. The appellant should investigate receiving assistance with these services under the PCA program, as recommended by the MassHealth representative in her testimony.

For the above stated reasons the 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.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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