

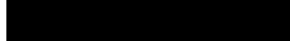
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2179014
Decision Date:	02/03/2022	Hearing Date:	01/14/2022
Hearing Officer:	Samantha Kurkijy		

Appearances for Appellant:



Appearances for MassHealth:

Leslie Learned, RN



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

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Authorization, Home Health Services
Decision Date:	02/03/2022	Hearing Date:	01/14/2022
MassHealth Rep.:	Leslie Learned, RN	Appellant Rep.:	[REDACTED]
Hearing Location:	Remote	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 November 8, 2021, MassHealth modified the appellant's prior authorization request for home health services. (Exhibit 1; Exhibit 4.) The appellant filed this appeal in a timely manner on November 12, 2021, challenging the gap in home health services. (130 CMR 610.015(B); Exhibit 2.) Denial and/or modification of a prior authorization request for home health services is a valid ground for appeal. (130 CMR 422.417(B) and 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 determining the appellant has a gap in home health services.

Summary of Evidence

The MassHealth representative testified that on October 4, 2021, the appellant submitted an initial prior authorization (“PA”) request for home health services consisting of one skilled nursing visit (“SNV”) per week, six medication administration visits (“MAVs”), and three as-needed (“PRN”) SNVs per week for a service period beginning September 26, 2021. On November 8, 2021, MassHealth approved the services with a service period of October 4, 2021 to January 1, 2022. On November 10, 2021, the appellant submitted an additional PA request to add home health aid (“HHA”) services of two hours per day, seven days per week with a requested service start date of August 23, 2021, but was approved for November 10, 2021, the day the PA request was submitted. The appellant submitted an appeal on November 12, 2021.

The MassHealth representative testified that there is a gap in the appellant’s services due to an error on the part of his home health agency. Because the PA requests were late, both PA requests were approved as of the day they were submitted to Optum, not on the earlier requested service start dates. The MassHealth representative also testified that the PA submitted by the agency on October 4, 2021 was voided due to a HIPAA violation, as the agency had included information on another patient with its request. Optum voided the PA request and called the provider to explain the issue. The discrepancy in service start date is due to an error made by the appellant’s agency.

The appellant’s representative testified that when the initial PA request was submitted, the appellant’s services were going to begin on September 26, 2021. After Optum called and informed the agency that another patient was accidentally included in the PA request, the agency resubmitted the PA request on October 4, 2021. The appellant’s representative testified that the requested services were approved and there is a gap in services because the agency was asked to resubmit the PA request. He confirmed that the appellant received services from September 26 to October 3, which was covered by the PA request that ultimately was voided.

The appellant’s representative testified that the agency received the November 8, 2021 MassHealth notice on November 10, 2021. The agency did not see any HHA services listed for the appellant, so it reached out to MassHealth and then resubmitted the PA request on November 10, 2021. The appellant wanted his services to be backdated to August 23, 2021.

The MassHealth representative noted that the appellant has been receiving services for a long time and it would not be unreasonable for the agency to submit the appellant’s PA request up to 21 days early, which is allowed under the regulations. She further testified that the HIPAA violation was not the only error by the agency that caused a delay; there was a deferral for an outdated Plan of Care and the wrong Plan of Care was sent a second time as well.

Findings of Fact

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

1. The appellant submitted a PA request to MassHealth for home health services.
2. Optum voided the PA request due to a HIPAA violation, as the appellant included information on another patient with his request. An Optum representative called the appellant's provider to explain that the PA request was voided.
3. On October 4, 2021, the appellant resubmitted the initial PA request for home health services consisting of one SNV per week, six MAVs, and three PRN SNVs per week, and requested a service period beginning September 26, 2021.
4. On November 8, 2021, MassHealth approved the requested services with a service period of October 4, 2021 to January 1, 2022.
5. The agency received the November 8, 2021 MassHealth notice on November 10, 2021. The agency did not see any HHA services listed for the appellant.
6. On November 10, 2021, the appellant submitted an additional PA request to add HHA services of two hours per day, seven days per week with a requested service start date of August 23, 2021.
7. Optum approved the requested services with a service period beginning on November 10, 2021, the day the PA request was submitted.
8. The appellant submitted a timely appeal on November 12, 2021.
9. The appellant received services from September 26 to October 3.
10. The HIPAA violation was not the only error by the agency that caused a delay; there was a deferral for an outdated Plan of Care and the wrong Plan of Care was sent a second time as well.

Analysis and Conclusions of Law

The appellant is disputing the gap in coverage resulting from the resubmission of his PA request after MassHealth informed him the previous PA request was voided due to a HIPAA violation.

Regulation 130 CMR 403.410(A)(1)-(2) addresses PA for home health services:

(A) General Terms.

(1) Prior authorization must be obtained from the MassHealth agency or its designee as a prerequisite to receipt of home health services as described in 130 CMR 403.410(C) and 403.410(F), below. For all other home health services prior authorization must be obtained from the MassHealth agency or its designee as a prerequisite to payment after certain limits are reached, as described in 130 CMR 403.410. Without such prior authorization, the MassHealth agency will not pay providers for these services.

(2) Prior authorization determines only the medical necessity of the authorized service, and does not establish or waive any other prerequisites for payment such as member eligibility or resort to health insurance payment.

Home health services include HHA services, described as follows at 130 CMR 403.416:

(A) Conditions of Payment. Home health aide services are payable only if all of the following conditions are met:

- (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 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 or therapist for skilled nursing services or therapy services, respectively, employed or contracted by the same home health agency as the home health aide. In the event that the home health agency contracts for, rather than directly employs, home health aides, such aides must be supervised in accordance with 42 CFR §484.80(h).

The regulations clearly call for PA before services are rendered. While it is unfortunate that the appellant's initial PA request included information relating to another patient and had to be voided, the Plan of Care was outdated, and the initial PA request did not include HHA services,

these errors are shouldered by the appellant and are not the result of actions on the part of MassHealth.

Accordingly, 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.

Samantha Kurkijy
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: Optum