

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2200866
Decision Date:	5/04/2022	Hearing Date:	03/03/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Leslie Learned, RN



*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:	Dismissed	Issue:	Adult Foster Care (AFC)
Decision Date:	5/04/2022	Hearing Date:	03/03/2022
MassHealth's Rep.:	Leslie Learned, RN	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South		

Jurisdiction

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder. Through a notice dated December 30, 2021, MassHealth denied the appellant's prior authorization request for AFC services because MassHealth determined that the appellant did not meet the clinical eligibility guidelines. (See 130 CMR 408.416 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on February 3, 2022. (See 130 CMR 610.015(B); Eligibility Operations Memo 20-09; and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the hearing the MassHealth representative stated that the documentation submitted as part of the prior authorization request should include documentation that the member has conditions requiring the level of care AFC services require. She stated that the problem here was that the medical records did not provide a consistent narrative indicating that the appellant required AFC services based on his diagnoses. According to the medical records, the appellant's diagnoses were chronic kidney disease, sleep apnea, and "chronic tophaceous gout." (Ex. 4, p. 10). The AFC Primary Care Provider Order Form submitted stated that the appellant requires hands-on assistance with dressing. (Ex. 4, p. 10). The PCP form states that the appellant has signs and symptoms of daily pain in his hand, elbow, and knees. (Ex. 4, p. 10). The MassHealth representative stated these symptoms did not relate to the primary diagnoses of chronic kidney disease and sleep apnea. The narrative indicates that at least some of the appellant's pain is caused by gout. The MassHealth representative stated that gout, is an acute condition that can have recurrent flare-ups but is not a daily occurrence. It was because of this inconsistency that MassHealth denied the AFC services based on 130 CMR 408.416 and 130 CMR 450.204. (Ex. 4, p. 21). For his part, the appellant testified that he had constant pain from his gout.

On April 26, 2022, the hearing officer emailed the MassHealth representative stating that pursuant to G.L. c. 30A, § 11(5)¹ he would take official notice of certain facts contained within two excerpts

¹ "Agencies may take notice of any fact which may be judicially noticed by the courts, and in addition, may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified

from Bonica's Management of Pain, 5th Ed. concerning differing stages of gout and chronic tophaceous gout. (Ex. 5). These excerpts indicated that chronic tophaceous gout differed from the MassHealth representative's description of the appellant's gout as an acute condition. (Id.). The MassHealth representative was afforded an opportunity to contest the facts so noticed. (Id.). On April 28, 2022, the MassHealth representative responded that based on the facts as presented MassHealth would approve Level I AFC. (Id.). On April 29, 2022, the MassHealth representative emailed the hearing officer to inform him that she did approve Level I AFC services for the appellant for the period from January 9, 2022 through January 8, 2023. (Id.).

Because MassHealth is approving the requested services the denial of which were the subject of this appeal, no issues on appeal remain in dispute for this hearing officer to resolve and this matter is DISMISSED pursuant to 130 CMR 610.051(B).

Order for MassHealth

If it has not done so already, MassHealth should issue a new notice approving Level I AFC services as requested for the period from January 9, 2022 through January 8, 2023.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. Agencies may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.”