

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2201584

Decision Date: 4/20/2022

Hearing Date: 4/11/2022

Hearing Officer: Sara E. McGrath

Appearances for Appellant:



Appearances for MassHealth:

Phuong Luc, Pharm.D., R.Ph.



*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 (Drug utilization Review)
Decision Date:	4/20/2022	Hearing Date:	4/11/2022
MassHealth Rep.:	Phuong Luc, Pharm.D., R.Ph.	Appellant Rep.:	Pro se
Hearing Location:	Board of Hearings (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 February 11, 2022, MassHealth denied the appellant's request for prior authorization for the prescription drug Ativan (130 CMR 406.413(E)(8)). The appellant filed a timely appeal on March 1, 2022. Denial of prior authorization is a valid ground for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for Ativan because it determined that the appellant did not demonstrate that the requested drug is medically necessary.

Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the requested drug.

Summary of Evidence

A registered pharmacist from the MassHealth Drug Utilization Review (DUR) program testified telephonically and explained that on February 10, 2022, the appellant's provider submitted a prior authorization (PA) request on the appellant's behalf for Ativan. The appellant's provider indicated that the appellant has a diagnosis of conversion disorder with seizures or convulsions (Exhibit 3, p. 4). The provider did not list any previous therapies trialed (Exhibit 3, p. 4). On February 11, 2022, MassHealth denied the request with the following comment:

Your prior authorization request for brand name (no substitution) ATIVAN 1 MG TABLET is denied. Documented evidence (medical records/office notes) supporting an adverse reaction or inadequate clinical response to the generic equivalent has not been provided. Additional information regarding the MassHealth Drug List can be found at www.mass.gov/druglist.

(Exhibit 3, p. 6).

The DUR pharmacist referenced the MassHealth Drug List (MHDL), a list that specifies which drugs need PA when prescribed for MassHealth members. The PA requirements specified in the MHDL reflect MassHealth's policy described in the pharmacy regulations and other communications from MassHealth, as well as MassHealth's and the DUR Board's review of drugs within certain therapeutic classes. The MHDL Therapeutic Tables provide a view of drugs within their respective therapeutic classes, along with PA requirements, clinical information about the drug, and evaluation criteria for prior authorization for select therapeutic classes. The criteria for prior authorization identify the clinical information MassHealth considers when determining medical necessity for selected medications. The criteria are based upon generally accepted standards of practice, review of the medical literature, federal and state policies, as well as laws applicable to the Massachusetts Medicaid Program.

The DUR pharmacist testified that there are two types of benzodiazepine; one is the hypnotic type used for sleep, and the other is the non-hypnotic type used to treat anxiety, panic disorder, skeletal muscle spasm, or seizure. Ativan is a brand-name, non-hypnotic benzodiazepine. The DUR pharmacist testified that MHDL Therapeutic Table 69 sets forth the PA requirements for Ativan, as follows:

Documentation of all of the following is required:

- appropriate diagnosis; **and**
- medical records documenting an adverse reaction or inadequate response to a generic equivalent of the requested product; **and**
- inadequate response (defined by 30 days of therapy) or adverse reaction to one other non-hypnotic benzodiazepine; **and**
- dose requested cannot be consolidated.

(Exhibit 3, p. 22-23).

The DUR pharmacist explained that both the generic equivalent of Ativan (lorazepam), as well as certain other non-hypnotic benzodiazepines, are less costly than Ativan. She further stated that one cheaper alternative, clobazam, is used specifically to treat seizures and is available without prior authorization.

MassHealth referenced a March 28, 2022 letter it sent to the appellant requesting additional information (Exhibit 3, p. 8). The letter requested copies of the appellant's medical records which indicate that she has tried generic lorazepam and it did not work, or she has unacceptable side effects, as well as documentation that she has tried one other non-hypnotic benzodiazepine for at least 30 days and it did not work, or she has unacceptable side effects (Exhibit 3, p. 8). Because MassHealth did not receive a response to its letter, the denial remained in place.

The appellant testified telephonically, and explained that she trialed generic lorazepam and experienced significant side effects. Her seizures were worse and more frequent, and she was hospitalized on many occasions. She also experienced shooting pain in her right leg. She does not want Ativan for daily use, but only as needed. She also does not plan to trial any other non-hypnotic benzodiazepines, as she is not willing to put her body through that.

Findings of Fact

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

1. On February 10, 2022, the appellant's provider submitted a PA request on the appellant's behalf for Ativan 1 mg. tablet.
2. The appellant has a diagnosis of conversion disorder with seizures or convulsions.
3. Ativan is a brand-name, non-hypnotic benzodiazepine used to treat anxiety, panic disorder, skeletal muscle spasm, or seizure.
4. Ativan requires PA and requires documentation of the following:
 - appropriate diagnosis; and
 - medical records documenting an adverse reaction or inadequate response to a generic equivalent of the requested product; and
 - inadequate response (defined by 30 days of therapy) or adverse reaction to one other non-hypnotic benzodiazepine; and
 - dose requested cannot be consolidated.

5. The appellant did not submit documentary evidence of a trial of lorazepam or any other non-hypnotic benzodiazepine.
6. On February 11, 2022, MassHealth denied appellant's request for prior authorization.
7. On March 1, 2022, the appellant timely appealed MassHealth's determination.

Analysis and Conclusions of Law

MassHealth covers pharmacy services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in MassHealth regulations (130 CMR 406.403). Under 130 CMR 406.422, prescribers must obtain prior authorization from MassHealth for drugs identified by MassHealth in accordance with 130 CMR 450.303. In addition, this regulation states that if the limitations on covered drugs specified in 130 CMR 406.412(A) and 406.413(A) and (C) would result in inadequate treatment for a diagnosed medical condition, the prescriber may submit a written request, including written documentation of medical necessity, to MassHealth for prior authorization for an otherwise noncovered drug or medical supply. Medical necessity is defined as follows:

A service is medically necessary if

- (1) 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; 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)).

As noted above, the MHDL provides sub-regulatory guidance and its requirements reflect MassHealth's policy described in the pharmacy regulations and other communications from MassHealth, as well as MassHealth's and the DUR Board's review of drugs within certain therapeutic classes. The MHDL Therapeutic Table 69 sets forth the PA requirements for Ativan, and those requirements include evidence of a trial of lorazepam and one other non-hypnotic benzodiazepine. The appellant testified to a trial of lorazepam, but did not submit any medical records to document the trial. Further, she indicated that she will not trial another non-hypnotic benzodiazepine. Without this documentation, the appellant has not satisfied MassHealth's PA

requirements and thus has not demonstrated that Ativan is a medical necessity at this time.

MassHealth correctly denied appellant's request for prior authorization. This 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.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: MassHealth Drug Utilization Review Program