

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2203899

**Decision Date:** 8/15/2022

**Hearing Date:** 06/24/2022

**Hearing Officer:** Radha Tilva

**Appearance for Appellant:**

[Redacted], Social Worker  
[Redacted], R.N.


**Appearance for MassHealth:**

Leslie Learned, Optum R.N.



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization – Skilled Nursing Facility
<b>Decision Date:</b>	8/15/2022	<b>Hearing Date:</b>	06/24/2022
<b>MassHealth's Rep.:</b>	Leslie Learned, RN	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 May 12, 2022, MassHealth modified appellant's prior authorization request for skilled nursing visits (Exhibit 1). The appellant filed this appeal in a timely manner on May 20, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth modified appellant's prior authorization request for skilled nursing visits.

## Issue

The appeal issue is whether MassHealth was correct in modifying appellant's prior authorization request for skilled nursing visits.

## Summary of Evidence

MassHealth was represented by a nurse who appeared by telephone and testified to the following: On May 9, 2022 appellant's provider, Alternative Home Health Agency, sent a request for home health services and skilled nursing services. On May 12, 2022 MassHealth promptly made a decision. Appellant is a married female in her sixties with a primary diagnosis of depression and secondary diagnosis which includes bipolar disorder, Type II diabetes, anxiety, chronic pain, asthma and hypertension (Exhibit 5, p 17). Appellant's provider requested one skilled nursing visit and six medication assistance visits for the period of May 9, 2022 to August 8, 2022. MassHealth modified the request to one skilled nursing and five medication assistance visits per week with three as needed visits.

The MassHealth representative explained that appellant takes medications at different times of the day. Thus, appellant is able to take medications on her own as the nursing visits are limited to once a day. The MassHealth representative further explained that the documentation submitted did not show any specific incidences of noncompliance and showed that appellant was stable and there were no new medications or hospitalizations. The MassHealth representative stated that the nurse prepours the medications in the morning, the appellant lives with her husband, and the appellant is approved for 20 hours and 30 minutes a week for PCA service. The MassHealth representative explained that the PCA can do medication reminders and that there has been no documentation that appellant has had to call in to ask questions about her medications in the documentation submitted. Lastly, the representative explained that there has been no aid pending because there was an interruption of services.

The appellant was represented by a social worker and R.N. who stated the following: appellant has a lot of mental health diagnoses and has had lots of hospitalizations. She recently had two emergency room visits for her uncontrollable pain and she is now using a cane. She also visits a mental health professional because of her difficulties with sleep. Her pain exacerbates her mental health issues and she feels nervous about taking medications on her own. She has a history of noncompliance and has to talk to the provider on the phone to make sure she is taking medications at the right time. She gets very nervous and anxious. Her husband cannot be relied upon to give her medication reminders as he cannot read or write English and has a limited education. He is also receiving services. Appellant's PCA services have nothing to do with medication reminders, and her PCA's are not always stable or reliable.

Appellant's representatives further testified that appellant actually needs a nurse two times a day as she does not manage her medications well. The social worker sees appellant for free every week to assist her. Previously appellant was receiving 7 visits per week under Medicare. The provider is still seeing her 7 times a week despite Medicaid only agreeing to pay for 6 visits as they feel like she really needs the daily visits.

## Findings of Fact

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

1. On May 9, 2022 appellant's provider, Alternative Home Health Agency, sent a request for home health services and skilled nursing services.
2. Appellant requested 1 skilled nursing and 6 medication assistance visits per week for May 9, 2022 to August 8, 2022.
3. MassHealth modified this request to 1 skilled nursing and 5 medication assistance visits per week.
4. Appellant takes multiple medications due at different times of the day.
5. Appellant receives 20 hours and 30 minutes a week of PCA services.

## **Analysis and Conclusions of Law**

Effective February 26, 2016, prior authorization requirements for intermittent skilled nursing services and home health aide services were added to the regulations at 130 CMR 403.410 (See Transmittal Letter HHA-51 (Feb. 2016)). Only medically necessary skilled nursing services and related home health aide services will be approved (130 CMR 403.415(B); 130 CMR 403.416(B)). Medical necessity is defined as the most conservative and least costly treatment that is available to a member to prevent, diagnose, alleviate, correct, or cure conditions in the member (See 130 CMR 450.204(A)). MassHealth will not pay for services that are available from another coverage source (130 CMR 450.204(A); 130 CMR 403.410(E)-(F)). Nursing services are payable where there is a clearly identifiable, specific medical need for nursing services and those services cannot "be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse ... ." 130 CMR 403.415(A)-(B). A medication administration visit will only be allowed

when the member is unable to perform the task due to impaired physical, cognitive, behavioral, and/or emotional issues, no able caregiver is present, the member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition, and/or the task of the administration of medication, including the route of administration, requires a licensed nurse to provide the service.

130 CMR 403.416(B)(7).

The representative's testimony supports that appellant has a history of noncompliance and cognitive difficulty administering medications. In addition, the testimony supports that there is no able caregiver other than a PCA who is not always reliable but is paid to support appellant for 20 hours and 30 minutes a week. It should be noted that MassHealth only pays for services if there is no other medical service or site of service, comparable in effect, available, or suitable that is more conservative or less costly to the MassHealth agency (130 CMR 450.204(B)). A PCA should be

able to give a patient a medication reminder and can be paid for those services by MassHealth. While it is unclear as to whether appellant's PCA was getting paid for medication reminders, for the time period in question, the PCA is available and appellant's PCM provider can ask for an increase in time. Based off 130 CMR 450.204(B), MassHealth's determination to decrease the number of visits per week to 1 skilled nursing and 5 medication assistance visits is correct. Appellant is encouraged to document any noncompliance issues, if any, for the future. 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.

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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

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

Appellant Representative: [REDACTED]