

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2205321
<b>Decision Date:</b>	1/19/2023	<b>Hearing Date:</b>	12/08/2022
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	01/17/2023

**Appellant Representative:**



**Accountable Care Organization (ACO)  
Representative:**

Kay George, R.N., clinical appeals nurse, and  
Noah Jones, intake administrator, member  
appeals and grievances, both from Fallon  
Health (Ms. George by telephone; Mr. Jones  
post-hearing only)



*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>	Approved	<b>Issue:</b>	ACO; Medical Necessity
<b>Decision Date:</b>	1/19/2023	<b>Hearing Date:</b>	12/08/2022
<b>ACO Reps.:</b>	Kay George, R.N.; Noah Jones	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote		

## 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 July 13, 2022, Fallon Health (Fallon), a MassHealth accountable care organization (ACO), informed the appellant that it had denied her internal appeal of a decision not to provide coverage for Wegovy injection 0.25 mg. because drugs prescribed for purposes that are not medically necessary, for example, cosmetic purposes, to enhance athletic performance, for appetite suppression or for non-covered services/conditions are excluded from coverage (Exh. 1). The appellant filed this external appeal with the Board of Hearings (BOH) in a timely manner on July 18, 2022 (Exh. 2). An ACO's denial of a request for coverage is valid grounds for appeal to BOH (130 CMR 610.032(B)(2)).<sup>1</sup>

## Action Taken by ACO

Fallon denied the appellant's internal appeal of a denial of a request for coverage of Wegovy injection 0.25 mg.

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<sup>1</sup> An accountable care organization is defined at 130 CMR 501.001 as an entity that enters into a population-based payment model contract with EOHHS as an accountable care organization, wherein the entity is held financially accountable for the cost and quality of care for an attributed or enrolled member population. ACOs include Accountable Care Partnership Plans, Primary Care ACOs, and MCO-Administered ACOs.

## Issue

Whether MassHealth's agent or designee, Fallon, was correct, pursuant to 130 CMR 450.204(A), in denying the appellant's internal appeal of a denial of coverage for Wegovy injection 0.25 mg.

## Summary of Evidence

Ms. George, a clinical appeals nurse with Fallon who testified by telephone, indicated that the appellant is a ■ year-old MassHealth member enrolled in the Fallon Medicaid Reliant ACO Plan ("Fallon"). On or about January 14, 2022, the Fallon prior authorization telephone line received a phone call from an individual employed by the office of the appellant's endocrinologist, Christine Mathai, M.D., requesting coverage for Wegovy 0.25 mg. injections (Exh. 9), for dates of service (DOS) January 1, 2022 through December 31, 2022.<sup>2</sup> Ms. George indicated that the Fallon prior authorization telephone line is staffed by representatives of a third-party contractor, Optum. Ms. George testified that after receipt, the request was reviewed by a doctor of pharmacology and was subsequently denied because Wegovy is excluded from coverage by Fallon (Testimony, Exh. 4). A notice to this effect was sent to the appellant by first-class mail on January 14, 2022 (Exh. 4, pp. 5-6).

Ms. George testified that the appellant has a number of medical diagnoses, including morbid obesity, type 2 diabetes without complications, and dysmetabolic syndrome. The latter is characterized by high blood pressure, and elevated triglyceride and cholesterol levels. These conditions put the appellant at risk for stroke and cardiovascular disease, Ms. George testified. According to a physician progress note from an office visit the appellant had in May, 2022, the appellant's weight was 197 lbs. (Testimony, Exh. 4).<sup>3</sup>

Ms. George pointed out that the Fallon MassHealth Member Handbook, at page 25, reflects that drugs excluded from coverage include:

Drugs prescribed for purposes that are not medically necessary, for example, cosmetic purposes, to enhance athletic performance, for appetite suppression or for non-covered services/conditions.

(Exh. 4, p. 77)

According to the Fallon appeal packet, Wegovy is a semaglutide drug prescribed for adults as an adjunct to a reduced-calorie diet and increased physical activity for chronic weight management with a body mass index (BMI) of 30 kg./m. or greater, or a BMI of 27 kg./m. or greater in the presence of at least one weight-related comorbid condition, such as hypertension, type 2 diabetes, or

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<sup>2</sup> Post-hearing correspondence from Fallon indicates that no prior authorization form or written request was submitted to Fallon on the appellant's behalf.

<sup>3</sup> The appellant testified that she is 5'6" tall.

dyslipidemia (Exh. 4).<sup>4</sup>

In post-hearing correspondence, Fallon indicated that the prior authorization representative (from Optum), at the time of the January 14, 2022 telephonic request for coverage of Wegovy 0.25 mg., documented two clinical conditions for the appellant: morbid severe obesity due to excess calories, and type two diabetes mellitus without complications (Exh. 9, Exh. 4, p. 10).

Ms. George indicated that per a physician progress note following a medical consult in May, 2022, the appellant had a hemoglobin A1C of 5.3, a “borderline” fasting glucose of 111, and her lipids were “at goal” (Testimony, Exh. 4, pp. 19-26). She noted that the appellant’s physician recommended, at this visit, that the appellant should avoid high-carbohydrate foods and should increase her exercise to approximately 150 minutes per week (*Id.*, p. 24). The appellant’s BMI as documented at this visit was 32.14 kg./m. (Exh. 4, p. 21).

The appellant requested an internal appeal of the January 14, 2022 denial by a phone call to Fallon on or about June 30, 2022. According to Ms. George, a Fallon doctor of pharmacology reviewed the appellant’s internal appeal, and determined that the appeal should be denied. A letter to this effect was sent to the appellant on July 13, 2022 (Exh. 4, p. 13). It is this denial letter that the appellant appealed externally to the BOH (Exh. 2).

The appellant testified by telephone that in addition to the diagnoses listed by Ms. George, the appellant has a diagnosis of polycystic ovarian syndrome (PCOS). She noted that all of her diagnoses, when combined, cause her to gain weight. She indicated that she understands that Wegovy was originally used to treat diabetes, and then it was discovered that a secondary effect of the drug is to facilitate weight loss. She was diagnosed with Type 2 diabetes about two years ago, and she was prescribed Metformin by Dr. Mathai. Recently the Metformin was discontinued, and Spironolactone 50 mg. twice per day was added. The appellant stated that her blood pressures run high (Testimony).<sup>5</sup>

The appellant testified that she walks up to 5 miles per day, every day, which she completes in an hour. She does not belong to Weight Watchers (Testimony).

The appellant pointed out that this appeal had originally been scheduled for a date in November, 2022, but had been postponed at Fallon’s request. Ms. George acknowledged that Fallon had requested a continuance of the earlier hearing, and had not been apprised of that earlier hearing date by BOH.

At the close of the appeal hearing, Ms. George, on behalf of Fallon, requested an opportunity to review this case with a doctor of pharmacology. The hearing officer granted Fallon a record-open period until December 27, 2022 to report back to himself and the appellant as to whether Fallon

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<sup>4</sup> Per a physician progress note from Christine Mathai, M.D., Ozempic is also a semaglutide drug (Exh. 4, p. 20).

<sup>5</sup> In a progress note following a visit the appellant had with Dr. Mathai in May, 2022, her blood pressure was documented to be 130/84 (Exh. 4, p. 21).

might alter its decision to deny coverage; in addition, the hearing officer gave the appellant until January 3, 2023 to respond with any comments in the event that Fallon continued to deny coverage (Exh. 5).

On December 21, 2022, the hearing officer received e-mail correspondence from Noah Jones, an intake administrator with the member appeals and grievances department, on behalf of Fallon, in response to the record-open form; the correspondence states in relevant part:

Per MassHealth Fair Hearing Rule 130 CMR 610.071 Evidence: the hearing record remained open until December 27, 2022, for Kay George, R.N., Clinical Appeals Nurse to consult with Fallon Health Pharmacy Services, Clinical/Government Programs; to better understand the coverage rules for semiglutide (*sic*) products currently marketed by Novo Nordisk. FH had until December 27, 2022, to decide if the testimony provided by the appellant, changed FH's decision to deny Wegovy 0.25 mg injectable medication. Per MassHealth Regulation 130 CMR 406.413: Limitations of Coverage of Drugs (B) (4) Obesity Management: The MH agency does not pay for any drug used for the treatment of obesity.

Summary:

Both Wegovy (semiglutide) (*sic*) and Ozempic (semiglutide) (*sic*) are manufactured by Novo Nordisk. Wegovy (semiglutide) (*sic*) – Dosages available: Wegovy 0.25mg., 0.5mg., 1mg., 1.7mg. and 2.5mg. (Given by weekly subcutaneous injection) FDA approved June 2021. Indication-weight loss. Ozempic (semiglutide) (*sic*) - Dosages available: Ozempic 0.25mg., 0.5mg., 1mg., and 2mg. (Given by weekly subcutaneous injection) FDA approved Dec 2017. Indication-Type 2DM. In addition to current CMR regulations referenced above, current CMS (Medicare D) regulations specifically exclude all drugs for 'weight loss' from coverage by Federal Regulations.

...

Background:

Both Wegovy and Ozempic are manufactured by Novo Nordisk.

Ozempic (semiglutide) (*sic*) is a GLP1-RA drug approved for the treatment of Type 2 DM. It was observed in clinical trials that members receiving Ozempic also had consistent weight loss (16% of body weight). Ozempic (semiglutide) (*sic*) was FDA approved 2017 under the following package insert use:

INDICATIONS AND USAGE ——— OZEMPIC® is a glucagon-like peptide 1 (GLP-1) receptor agonist indicated as: an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus (1) to reduce the risk of major adverse cardiovascular events in adults with type 2 diabetes mellitus and established cardiovascular disease (1).

From clinical trials of Ozempic in Type 2 DM, the manufacturer became aware that the degree of weight loss was directly related to the dosage. That is, the higher the dose the more weight loss was observed. With this knowledge, semiglutide (*sic*) continued to be studied at increased dosages for weight loss. Note: that the highest

dose of Wegovy exceeds the max available dose of Ozempic and has not been specifically studied in the treatment of Type 2 DM.

Wegovy (semaglutide) (*sic*) indication per FDA approved package insert:

INDICATIONS AND USAGE ——— WEGOVY® is a glucagon-like peptide-1 (GLP-1) receptor agonist indicated as an adjunct to a reduced calorie diet and increased physical activity for chronic weight management in adult patients with an initial body mass index (BMI) of  $\geq 30$  kg./m<sup>2</sup> or greater (obesity) or  $\geq 27$  kg./m<sup>2</sup> or greater (overweight) in the presence of at least one weight-related comorbid condition (e.g., hypertension, type 2 diabetes mellitus, or dyslipidemia).

(1) The original request by the Member's physician documented specifically for Wegovy for the regulatory excluded indication 'weight loss.' The request was not specific for the treatment of Type 2 DM. Coverage was denied due to current State and Federal Government regulations as described above. In this case, Ozempic (semaglutide) (*sic*) and other medications in the same pharmacologic class (GLP1-Receptor Agonist), specifically approved for the treatment of Type 2 Diabetes would be the alternatives to Wegovy and covered under State and Federal regulations. Formulary coverage requirements for GLP1-RA medications are located on the MassHealth drug list.

Summary:

Per MassHealth Regulation 130 CMR 406.413: Limitations of Coverage of Drugs (B) (4) Obesity Management, and the Fallon 365 Member Handbook Exclusions (pg. 78): drugs prescribed for purposes that are not medically necessary, for example, cosmetic purposes, to enhance athletic performance, for appetite suppression are excluded from coverage. The prescribers original request was specifically to target weight loss and not submitted with reference to diabetes. The drug chosen by the prescriber was Wegovy. If the prescriber had/has intention of treating the member's diabetes, several on-formulary alternatives exist.

(Exh. 6)

On December 22, 2022, the hearing officer received the following e-mail correspondence from the appellant in response to the Fallon record-open submission:

I sent a message to the prescribing doctor's office and a nurse called me back and said a prescription is NOT submitted with a diagnosis. As I previously stated, [Wegovy] is a diabetes drug that they have found also helps with weight loss so to clarify, it was not submitted with a diagnosis to treat weight loss. It is a diabetes medicine. The hope is, this will get my insulin hormone, PCOS, insulin resistance, metabolic syndrome under control. By medical terms, they have diagnosed me as obese, which I have weight gain from the above listed medical conditions and the hope is this medication will treat the above listed conditions and there may be some weight loss that will add to the cure of these conditions.

(Exh. 7)

On January 6, 2023, the hearing officer, by e-mail to the parties, reopened the record of this appeal pursuant to the Fair Hearing Rules at 130 CMR 610.081, "Reopening Before Decision."<sup>6</sup> The hearing officer's e-mail to the parties states in pertinent part:

As I reviewed the Fallon hearing packet, both at and following the hearing, I could find no narrative summary of the request for Wejovy 0.25 mg. injections submitted by Dr. Christine Mathai, nor the date of her request. I asked for a copy of the prior authorization form at hearing, and I received no answer.

Instead, I was directed to various pages of the Fallon packet (pp. 8-11) that appear to be printouts from a computer. There was also an issue with the representative's packet having different page numbers than the pages on my copy.

Various 'codes' that are indecipherable to me on pp. 8-11, and were not explained by the hearing representative, state various indications for prescribing this drug, including: anorexic; anti-obesity; morbid obesity; and type 2 diabetes without complications. Were these fields completed by Fallon? Or Dr. Mathai? Were these diagnoses taken from a source document from Dr. Mathai?

Also, I have no information from Fallon or Dr. Mathai as to how often [the appellant] was supposed to take these injections.

In order to prepare a decision, I need Fallon to produce to me a CLEAR INDICATION of why this drug was originally prescribed/requested by Dr. Mathai, and when. Is there a source document submitted by the doctor? I need to review such a source document. I still have no evidence why (for what indication) it was prescribed by Dr. Mathai.

...

(Exh. 8)

On January 12, 2023, the hearing officer received an e-mail response from a Fallon representative answering his questions, which was copied to the appellant. Fallon noted that no prior authorization (PA) form or narrative summary had been submitted in writing by Dr.

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<sup>6</sup> Pursuant to 130 CMR 610.081: "After the close of the hearing and before a decision, the hearing officer may reopen the record or, if appropriate, the hearing if he or she finds need to consider further testimony, evidence, materials or legal rules before rendering his or her decision. If the hearing officer decides to reopen the record, he or she must notify all parties accordingly and all parties will have the opportunity to submit such additional testimony, evidence, materials, or legal argument as the hearing officer may describe in such notice and within such time period that the hearing officer may so establish, unless the party waives the right at hearing to receive a copy of and respond to such submission. All such additional submissions must be sent to the other party or parties who will have the opportunity to respond to such submissions within such time period as the hearing officer may establish."

Mathai; the request for drug coverage came via a PA request phone line to Fallon from a “office technician” employed by Dr. Mathai (Exh. 9). The Fallon response indicates that an Optum customer service representative had a follow-up phone call with the office technician on January 15, 2022, and documented two diagnoses purportedly justifying the need for Wegovy 0.25 mg. injections for the appellant: morbid severe obesity due to excess calories, and type two diabetes mellitus without complications (Exh. 9; Exh. 4, p. 10). The Fallon response also states that Wegovy 0.25 mg. has standard dosing of once-weekly injection given subcutaneously per the federal Food and Drug Administration (FDA) package insert for this drug (Exh. 9).

## **Findings of Fact**

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

1. The appellant, who is under age 65, is a MassHealth member enrolled in the Fallon Medicaid Reliant ACO Plan, MassHealth’s contracted agent (Testimony, Exh. 4).
2. On January 14, 2022, an employee of the appellant’s endocrinologist, Dr. Mathai, called the Fallon telephone PA request line to determine if coverage of Wegovy 0.25 mg. injections would be provided by Fallon, for DOS January 1, 2022 through December 31, 2022 (Testimony, Exh. 9).
3. Following this request, a doctor of pharmacology reviewed the request and subsequently denied it because Wegovy is excluded from coverage by Fallon (Testimony, Exh. 4).
4. The Fallon MassHealth Member Handbook, at page 25, reflects that drugs excluded from coverage include: “Drugs prescribed for purposes that are not medically necessary, for example, cosmetic purposes, to enhance athletic performance, for appetite suppression or for non-covered services/conditions” (Exh. 4, p. 77).
5. Fallon sent a denial notice to the appellant by first-class mail on January 14, 2022 (Exh. 4, pp. 5-6).
6. The appellant has a number of medical diagnoses, including morbid obesity, type 2 diabetes without complications, polycystic ovarian syndrome, and dysmetabolic syndrome; the latter is characterized by high blood pressure, and elevated triglyceride and cholesterol levels (Testimony, Exh. 4).
7. Due to the presence of these conditions, the appellant is at a higher risk for cardiovascular disease and stroke (Testimony).
8. The appellant requested an internal appeal of the Fallon January 14, 2022 denial notice (Exh. 4).
9. The appellant’s internal appeal was reviewed by a doctor of pharmacology at Fallon, and denied (Testimony, Exh. 4).



10. Through a notice dated July 13, 2022, Fallon informed the appellant that it had denied her internal appeal of a decision not to provide coverage for Wegovy injection 0.25 mg. because drugs prescribed for purposes that are not medically necessary, for example, cosmetic purposes, to enhance athletic performance, for appetite suppression or for non-covered services/conditions are excluded from coverage (Exh. 1).
11. The appellant timely requested an external appeal to the BOH on July 18, 2022 (Exh. 2).
12. Wegovy is a semaglutide drug prescribed for adults as an adjunct to a reduced-calorie diet and increased physical activity for chronic weight management with a body mass index (BMI) of 30 kg./m. or greater, or a BMI of 27 kg./m. or greater in the presence of at least one weight-related comorbid condition, such as hypertension, type 2 diabetes, or dyslipidemia, per the FDA package insert (Exhs. 4 and 6).
13. According to a physician progress note from an office visit the appellant had in May, 2022, the appellant's weight was 197 lbs. and her BMI was 32.14 kg./m. (Exh. 4).
14. Wegovy is typically given by injection once weekly (Exh. 9).
15. The appellant was diagnosed with hypertension (Testimony).
16. In May, 2022, the appellant had a hemoglobin A1C of 5.3, a "borderline" fasting glucose of 111, and her lipids were "at goal" (Testimony, Exh. 4, pp. 19-26).
17. An Optum customer service representative, on behalf of Fallon, had a follow-up phone call with Dr. Mathai's office technician on January 15, 2022, and documented two diagnoses purportedly justifying the need for Wegovy 0.25 mg. injections for the appellant: morbid severe obesity due to excess calories, and type two diabetes mellitus without complications (Exh. 9; Exh. 4, p. 10).
18. Following a record-open period, Fallon maintained its decision to deny coverage of Wegovy 0.25 mg. for the appellant, on the basis that it was prescribed for her weight loss, and not for treatment of her type two diabetes (Exh. 7).

## **Analysis and Conclusions of Law**

Pursuant to MassHealth regulation 130 CMR 508.001(A):

Mandatory Enrollment with a MassHealth Managed Care Provider. MassHealth members who are younger than 65 years old must enroll in a MassHealth managed care provider available for their coverage type. Members described in 130 CMR 508.001(B) or who are excluded from participation in a MassHealth managed care provider pursuant to 130 CMR 508.002(A) are not required to enroll with a MassHealth managed care provider.

Next, MassHealth regulation 130 CMR 508.006(A)(1) provides in relevant part:

Accountable Care Partnership Plans.

(1) Enrollment in an Accountable Care Partnership Plan.

(a) Selection Procedure. When a member becomes eligible for managed care, the MassHealth agency notifies the member of the member's obligation to select a MassHealth managed care provider within the time period specified by the MassHealth agency. The MassHealth agency makes available to the member a list of Accountable Care Partnership Plans in the member's service area. The list of Accountable Care Partnership Plans that the MassHealth agency will make available to members will include those Accountable Care Partnership Plans that contract with the MassHealth agency to serve the coverage type for which the member is eligible and provide services within the member's service area. The member's service area is determined by the MassHealth agency based on zip codes or geographic area. Service area listings may be obtained from the MassHealth agency.

(b) MassHealth members are assigned to Accountable Care Partnership Plans, may transfer from Accountable Care Partnership Plans, may be disenrolled from Accountable Care Partnership Plans, and may be re-enrolled in Accountable Care Partnership Plans as described in 130 CMR 508.003(B) through 130 CMR 508.003(E).

MassHealth regulation 130 CMR 508.010, "Right to a Fair Hearing," states as follows:

Members are entitled to a fair hearing under 130 CMR 610.000: *MassHealth: Fair Hearing Rules* to appeal

(A) the MassHealth agency's determination that the MassHealth member is required to enroll with a MassHealth managed care provider under 130 CMR 508.001;

**(B) a determination by the MassHealth behavioral health contractor, by one of the MCOs, Accountable Care Partnership Plans, or SCO as further described in 130 CMR 610.032(B), if the member has exhausted all remedies available through the contractor's internal appeals process;**

...

(Emphasis added)

Here, the appellant exhausted the internal appeal process offered through her ACO, and thus is entitled to a fair hearing pursuant to the above regulations.

As MassHealth's agent, Fallon is required to follow MassHealth laws and regulations pertaining to a member's care.

Next, MassHealth regulation 130 CMR 508.006(A)(2), "Obtaining Services When Enrolled in an Accountable Care Partnership Plan," states in pertinent part:

(a) Primary Care Services. When the member selects or is assigned to an Accountable Care Partnership Plan, that Accountable Care Partnership Plan will deliver the member's primary care, determine if the member needs medical or other specialty care from other providers, and determine referral requirements for such necessary medical services.

(b) Other Medical Services. All medical services to members enrolled in an Accountable Care Partnership Plan (except those services not covered under the MassHealth contract with the Accountable Care Partnership Plan, family planning services, and emergency services) are subject to the authorization and referral requirements of the Accountable Care Partnership Plan. . . .

MassHealth will pay a provider only for those services that are medically necessary. Pursuant to 130 CMR 450.204(A), 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth pursuant to a prior authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

Pursuant to 130 CMR 406.412, "Covered Drugs and Medical Supplies:"

(A) Drugs. The MassHealth Drug List specifies the drugs that are payable under MassHealth. In addition, the following rules apply.

(1) Prescription Drugs. The MassHealth agency pays only for prescription drugs that are approved by the U.S. Food and Drug Administration and manufactured by companies that have signed rebate agreements with the U.S. Secretary of Health and Human Services pursuant to 42 U.S.C. 1396r-8. Payment is calculated in accordance with 101 CMR 331.00: Prescribed Drugs.

(2) Over-the-counter Drugs. Payment by the MassHealth agency for over-the-counter drugs is calculated in accordance with 101 CMR 331.00: Prescribed Drugs. . . .

MassHealth regulation 130 CMR 406.413(B) states as follows:

Drug Exclusions.

The MassHealth agency does not pay for the following types of prescription or over-the-counter drugs or drug therapy.

(1) Cosmetic. The MassHealth agency does not pay for any drug when used for

cosmetic purposes or for hair growth.

(2) Cough and Cold. The MassHealth agency does not pay for any drug used solely for the symptomatic relief of coughs and colds including, but not limited to, those that contain an antitussive or expectorant as a major ingredient, unless dispensed to a member who is a resident in a nursing facility or an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(3) Fertility. The MassHealth agency does not pay for any drug used to promote male or female fertility.

**(4) Obesity Management. The MassHealth agency does not pay for any drug used for the treatment of obesity. . . .**

(Emphasis added)

At issue in this appeal is Fallon's denial of the appellant's PA request for Wegovy 0.25 mg. injections. The record shows that Wegovy 0.25 mg. is a semaglutide drug approved by the FDA. Fallon denied the original PA request and the subsequent level one internal appeal because it believed Wegovy was prescribed for the appellant for obesity management, and these drugs are, *per se*, excluded from coverage by MassHealth.

However, the evidence shows that the appellant's prescriber offered two diagnoses supporting the medical necessity of Wegovy: morbid severe obesity due to excess calories, and type two diabetes mellitus without complications.

MassHealth covers the cost of diabetic medications. On the MassHealth Drug List, semaglutide injection (a diabetic agent) is a covered drug, subject to prior authorization requirements.<sup>7</sup> In addition, the appellant meets two of the criteria for the use of Wegovy as indicated in the FDA package insert for this drug: a BMI greater than 27 kg/m., and the presence of two comorbid conditions (type two diabetes, and hypertension). This drug will, ideally, reduce the appellant's risk for cardiovascular disease and stroke.

I therefore conclude that Fallon's denial of Wegovy 0.25 mg. injections was incorrect. The prescriber's rationale for requesting this drug was, in part, for treatment of the appellant's type two diabetes.

Wegovy 0.25 mg. injections are medically necessary for the appellant pursuant to 130 CMR 450.204(A).

This appeal is APPROVED.

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<sup>7</sup> Wegovy, the brand name for semaglutide, is not listed on the MassHealth Drug List. Ozempic, another semaglutide, is listed on the MassHealth Drug List.

## **Order for ACO**

Rescind denial letter of July 13, 2022. Send the appellant a notice of approval for Wegovy 0.25 mg. once-weekly injections. If the appellant incurred out-of-pocket expenses for the cost of Wegovy 0.25 mg. injections during DOS January 1, 2022 through December 31, 2022, reimburse the appellant's expenditures upon receipt of reliable evidence of what she paid.

## **Implementation of this Decision**

If you experience problems with the implementation of this decision, you should report this in writing to the BOH Director at the address on the first page of this decision.

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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Fallon Health, Appeals and Grievances Department, 10 Chestnut Street, Worcester, MA 01608