

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2206080

Decision Date: 11/1/2022

Hearing Date: 10/24/2022

Hearing Officer: Thomas Doyle

Record Open to:

Appearance for Appellant:
Pro Se

Appearance for BMC HealthNet Plan:
Jessica Amorosino, M.D.; Nicholas
Pfleghaar, M.D.; Priya Mehta, Asst. G.C.;
Shannon Choy-Seymour, Associate G.C.;
Felicia DiSciscio, Appeals & Grievances;
Jacqueline Bigbee, Appeals & Grievances

Interpreter:



*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:	Denied	Issue:	Coverage due to Medical Necessity
Decision Date:	11/1/2022	Hearing Date:	10/24/2022
BMC HealthNetPlan Rep.:	Jessica Amorosino, M.D.; Nicholas Pflieghaar, M.D.; Priya Mehta, Asst. G.C.; Shannon Choy-Seymour, Associate G.C.; Felicia DiSciscio, Appeals & Grievances; Jacqueline Bigbee, Appeals & Grievances	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	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 July 28, 2022¹, BMC HealthNet Plan denied the appellant's request for a PET/CT because BMC HealthNet Plan determined the test was not medically necessary. (Ex. 1; Ex. 2). The appellant filed this appeal in a timely manner on August 5, 2022. (130 CMR 610.015(B); Ex. 3). A decision to deny a requested service is valid grounds for appeal (see 130 CMR 610.032).

¹ An internal appeal was denied by notice dated June 17, 2022. (Ex. 1).

Action Taken by MassHealth/BMC HealthNet Plan

BMC HealthNet Plan denied coverage for a Positron Emission Tomography and Computed Tomography (PET/CT) scan.

Issue

The appeal issue is whether BMC HealthNet Plan was correct, pursuant to 130 CMR 450.204, in denying coverage for a PET/CT scan because it was not medically necessary.

Summary of Evidence

The appellant appeared telephonically at the hearing. The HealthNet Plan was represented telephonically by two doctors; two attorneys and two coordinators for appeals and grievances.

Appellant is a male in his mid-30's. In June 2022, appellant requested coverage from HealthNet Plan for a PET/CT scan. Appellant had a CT scan on June 1, 2022. On June 17, 2022, EviCore, a contracted vendor for review of certain non-emergent outpatient high tech radiology services for HealthNet Plan, denied appellant's request for coverage. The request was denied because the service was not medically necessary. EviCore reviewed documents and information submitted by Dr. Peter Novak. An EviCore Physician Reviewer reviewed EviCore Chest Imaging Guidelines, Section CH 2.3, Mediastinal Lymphadenopathy and determined that appellant's records did not show appellant had enlarged lymph nodes in his chest area that are at least 15 mm in size with no other chest abnormalities. On June 30, 2022, appellant initiated an internal appeal with HealthNet Plan. On July 28, 2022, HealthNet Plan denied appellant's internal appeal. A HealthNet Plan Physician Reviewer considered the information received for the initial review that was denied by EviCore. In order to determine if the procedure was medical necessary, the Physician Reviewer also applied EviCore's Chest Imaging Guidelines Section: CH 2.3, Mediastinal Lymphadenopathy. The Physician Reviewer, in consultation with an actively practicing, board certified neurologist, reviewed the documentation and found it did not show that appellant had enlarged lymph nodes in his chest that are at least 15 mm in size with no other chest abnormalities. It was recommended that a repeated CT scan of appellant's chest be done in three months in addition to a CT scan of appellant's abdomen/pelvis.

Appellant testified he underwent a CT scan on June 1, 2022. He had a follow up CT scan on his abdomen/pelvis on June 27, 2022 that he thought did not yield anything. He testified he did not understand why something as arbitrary as 15 mm is relevant. He said since the cause of his issues is not known, why not keep looking to find the answer. He testified he was going to be applying for disability. He said his doctors do not give much feedback and he thought the PET scan could show something important and the doctors should look further.

Findings of Fact

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

1. Appellant is a male in his mid-30's. (Ex. 1). His Plan is MCO Essential MA Medicaid, CarePlus A, effective March 1, 2018. (Ex. 6, p. 9).
2. In June 2022, appellant requested a PET/CT scan through Dr. Peter Novak. (Ex. 1; Ex. 6, p. 10, 44).
3. On June 17, 2022, EviCore, a contract vendor for BMC HealthNet Plan, denied the request for a PET/CT scan as not medically necessary. (Ex. 1; Ex. 6, p. 10).
4. On June 30, 2022, appellant initiated an internal appeal of the denial of his request for a PET/CT scan. (Ex. 2, p. 1).
5. On July 28, 2022, HealthNet Plan denied appellant's internal appeal because it was not medically necessary. (Ex. 2; Ex. 6, p. 10).
6. HealthNet Plan found the request for a PET/CT scan was not medically necessary after a Plan Physician Reviewer, in consultation with an actively practicing, board certified neurologist, reviewed EviCore's Chest Imaging Guidelines, Section: CH 2.3. (Ex. 2, p. 1; Ex. 6, pp. 10, 24, 25-26, 83).
7. The HealthNet Plan review did not show that appellant had enlarged lymph nodes in his chest that are at least 15mm in size with no other chest abnormalities. (Ex. 2, p. 1; Ex. 6, pp. 10, 24, 25-26).
8. HealthNet Plan is contractually bound to follow MassHealth regulations regarding medical necessity. (Testimony).
9. Appellant has a diagnosis of idiopathic peripheral autonomic neuropathy. (Ex. 6, pp. 24, 25, 44, 48).
10. Appellant has two primary care physicians, Dr. Mohammad Khan (Ex. 6, p. 9) and Dr. Arthur C. Sgalia. (Ex. 6, p. 68). The request for a PET/CT scan was made by Dr. Peter Novak. (Ex. 6, p. 10, 44, 48).

Analysis and Conclusions of Law

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. (130 CMR 508.001 (A)).

Other Medical Services. All medical services to members enrolled in an MCO (except those services not covered under the MassHealth contract with the MCO, family planning services, and emergency services) are subject to the authorization and referral requirements of the MCO. MassHealth members enrolled in an MCO may receive family planning services from any MassHealth family planning provider and do not need an authorization or referral in order to receive such services. Members enrolled with an MCO should contact their MCO for information about covered services, authorization requirements, and referral requirements. (130 CMR 508.004(B)(2)).

Medical Necessity: The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(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 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.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.) (130 CMR 450.204(A), (B)).

An attorney for HealthNet Plan testified, when developing guidelines, such as for medical necessity, the minimum required is to follow MassHealth regulations, pursuant to a contract with MassHealth. Therefore, HealthNet Plan's medical necessity guidelines are in line with medical necessity regulations of MassHealth. (Testimony).

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231. (2007). Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002).

Appellant had a chest CT scan on June 1, 2022. After this procedure, appellant's neurologist, Dr. Novak, requested a PET/CT scan. (Ex. 6, p. 10). After review, the request for a PET/CT was denied, pursuant to eviCore's Chest Imaging Guidelines, Section: CH 2.3, (Ex. 6, p.83) because it would not be considered medically necessary as the chest CT from June 1, 2022 did not demonstrate enlarged lymph nodes greater than 15 mm in size with no other thoracic abnormalities. (Ex. 6, p. 24, 25, 44). Appellant does not refute the finding that his lymph nodes were not greater than 15 mm in size nor did he provide any medical documents to refute this finding. Along with the denial, it was recommended that appellant undergo another chest CT in three months, on or around September 1, 2022. Appellant was not aware of any three month follow up for a CT chest scan. Appellant testified that he underwent a CT scan for his abdomen and pelvis on June 27, 2022 but he believed the scan did not yield anything. (Testimony). HealthNet Plan stated that because there was no three month follow up chest CT scan, they did not have additional information to provide further insight. (Testimony). There was no error by HealthNet Plan denying the request for a PET/CT scan because the request did not meet their own medically necessary guidelines.

Under MassHealth regulations,

(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 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)).

The record is bereft of anything from appellant's medical providers that the PET/CT scan is medically necessary. Appellant has not provided any letters or documents of any kind from Dr. Novak, who ordered the PET/CT, or from two other doctors listed as involved in his care, Dr. Sgalia (Ex. 6, p. 68) or Dr. Khan. (Ex. 6, p. 9). Appellant was asked by a HealthNet Plan attorney why his doctor was not involved in the hearing. Appellant answered that the doctors he sees are "really hard" to see; that they don't have time to be bothered with this case; the doctors do not have time to fight insurance companies or play lawyer. Appellant testified that having doctors involved was a waste of resources. (Testimony).

Appellant has failed to show HealthNet Plan's denial of the request for a PET/CT scan due to lack of medical necessity was in error. The appeal is denied.

Order for MassHealth/HealthNet Plan

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: BMC HealthNet Plan, Member Appeals & Grievances,
Attn: Felicia Hughes, 529 Main Street, Ste. 500, Charlestown, MA 02129