

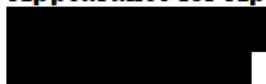
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2207672
Decision Date:	1/4/2023	Hearing Date:	11/22/2022
Hearing Officer:	Christopher Jones		

Appearance for Appellant:




Appearance for MassHealth:

Jocelyn Alexandre, 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:	Approved	Issue:	Prior Authorization - SNV
Decision Date:	1/4/2023	Hearing Date:	11/22/2022
MassHealth's Rep.:	Jocelyn Alexandre, RN	Appellant's Rep.:	
Hearing Location:	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 September 6, 2022, MassHealth modified the appellant's prior authorization request for home-health services. (Exhibit 2; 130 CMR 450.204; 450.303.) The appellant filed this appeal in a timely manner on October 13, 2022. (Exhibit 3; 130 CMR 610.015(B).) Limitations on assistance are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth modified the appellant's request for two skilled-nursing visits per week, allowing only one skilled-nursing visit and one medication-administration visit.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 403.000, in determining that the appellant's second nursing visit per week should be paid as a medication-administration visit.

Summary of Evidence

The appellant has a primary diagnosis is schizophrenia and a secondary diagnosis of unspecified convulsions. She is described as unable to care for herself due to impaired insight and paranoia.

(Exhibit 3, pp. 7-8.) On or around September 8, 2022, the appellant's home health agency, Able Home Care, submitted a prior authorization request seeking two skilled-nursing visits ("SNVs") per week to provide psychiatric assessment and management for a prior authorization period running from September 18, 2022 through January 7, 2023. (Exhibit 3, pp. 7, 9.)

MassHealth's representative testified that the agency modified this request, allowing one SNV and one medication-administration visit ("MAV") per week. They also allowed four as needed ("PRN") SNVs to be used throughout the course of the prior authorization period. The appellant receives an injected medication every two weeks, but otherwise her medications are oral and are all listed as administered at bedtime. MassHealth's representative noted that all of the nursing visits occur in the morning, and that the appellant is mostly identified as compliant with her pre-poured medications. There was one instance where non-compliance was noted, but the appellant generally appeared appropriately dressed and cooperative. The physician's order and the nursing notes all appeared to indicate that the visits were for medication administration. Because all of the medications were nighttime medications, it was unclear why this was being documented. However, based on this documentation, MassHealth felt it was appropriate to convert one of the nursing visits each week to a MAV.

The appellant's representatives clarified that the only medication actually administered by a nurse was the injection every other week. Otherwise, once a week the nurse pre-pours medications and the second visit was needed to perform an additional mental health assessment. The appellant's representatives argued that it was inappropriate to modify one of their visits each week to a MAV because the definition of MAV states the visit must be for the administration of medications. Because their visit is not for medication administration, it would be inappropriate to bill it as a MAV.

MassHealth felt that both of these visits could be MAVs, except for the bi-weekly visit where a medication is injected. MassHealth's representative conceded that this would need to be a SNV. She also felt that the appellant could possibly be reduced to a single visit per week, though that is not a decision that was at issue in this appeal. The appellant's representatives responded that, while the appellant is doing well, she is highly paranoid. The two visits per week are very important to her stability as a matter of continuity of care. It is very important to her to know that her nurse is coming on a regular schedule.

Findings of Fact

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

1. The appellant has a primary diagnosis is schizophrenia and a secondary diagnosis of unspecified convulsions. She is described as unable to care for herself due to impaired insight and paranoia. (Exhibit 3, pp. 7-8.)
2. On or around September 8, 2022, the appellant's home health agency, Able Home Care, submitted a prior authorization request seeking two skilled-nursing visits ("SNVs") per

week to provide psychiatric assessment and management for a prior authorization period running from September 18, 2022 through January 7, 2023. (Exhibit 3, pp. 7, 9.)

3. During one visit per week, the nurse pre-pours the week's medications. The second visit per week is solely for psychiatric assessment to ensure medication compliance. Once every other week, the appellant receives an injected medication. The appellant self-administers her own oral medications at nighttime. (Testimony by MassHealth and the appellant's representatives.)
4. The appellant had one incident of medication non-compliance noted, but otherwise appeared appropriately dressed, cooperative, and stable from the nursing notes. (Testimony by MassHealth's representative.)

Analysis and Conclusions of Law

MassHealth pays for home health services for eligible members, including nursing, home health aide, and home therapy services. (130 CMR 403.000.) Home health services must be prescribed and provided in accordance with a plan of care that certifies the medical necessity of the services requested. (130 CMR 403.409(A).) Often, prior authorization is required. (130 CMR 403.410.)

This appeal largely comes down to the distinction between skilled nursing visits and medication administration visits. In July 2022, the regulations were overhauled. The current regulations include the following relevant definitions:

Medication Administration Visit – a nursing visit **for the sole purpose of administration of medications where the targeted nursing assessment is medication administration and patient response only**, and 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 including the route of administration of medication requires a licensed nurse to provide the service. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication, but does not include intravenous administration.

...

Nursing Services – the assessment, planning, intervention, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse.

...

Skilled Nursing Visit – a nursing visit that is necessary to provide targeted skilled nursing assessment for a specific member medical need, and/or discrete procedures and/or treatments, typically for less than two consecutive hours, and limited to the time required to perform those duties.

(130 CMR 403.402 (emphasis added).)

The regulation specifically governing nursing services largely repeats this distinction between “skilled nursing visits” and “medication administration visits.”

(7) Medication Administration Visit. A nursing visit **for the sole purpose of administering medication and where the targeted nursing assessment is medication administration and patient response only** may be considered medically necessary 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. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication[.]

(130 CMR 403.415(B)(7) (emphasis added).)

“Medication Administration Visits must include teaching on medication management to maximize independence, as applicable, documentation as specified in 130 CMR 403.419(C)(3)(b)9., and assessment of the member response to medication.” (130 CMR 403.423(G).)

The appellant argues that the emphasized language in these regulations makes clear that the services the appellant requires should not be considered MAVs.¹ The appellant’s representatives argues that she is not even administered medications during each visit, except for an injection every other week. Therefore, medication administration is not the “purpose” of the visit. The visit is to provide a comprehensive psychiatric evaluation to determine whether the appellant remains compliant with her self-administered medications and to provide continuity of care that ensures the appellant’s mental stability.

To further support this interpretation, the old definition of “Medication Administration Visit” was

Medication Administration Visit — **a skilled nursing visit for the purpose of**

¹ It is worth noting that the appellant’s home health agency is interested in the outcome of this appeal because MassHealth “pays a separate rate for nursing visits conducted for the purpose of medication administration, as defined in 130 CMR 403.402.” (130 CMR 403.423(G).) The rate for MAVs is lower than the rate for SNVs.

administration of medications 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 including the route of administration of medication requires a licensed nurse to provide the service. ...

(130 CMR 403.402 (2017) (emphasis added).)²

I am convinced by the appellant's interpretation of the regulations. MassHealth's position is that, because MAVs require an assessment and teaching be provided, any teaching and assessments provided may be included in a MAV. This ignores the emphasis that a MAV assessment is meant to be targeted to the patient's response of the medications administered at that visit. Ultimately, I am persuaded that neither of the nursing visits the appellant receives each week can be considered as solely for the purpose of administering medications and assessing his response to the medications administered, in part because the purpose of the visit is to ensure compliance with self-administration, but also because no medication is being provided during most of these visits. Therefore, this appeal is APPROVED.

This decision does not require that MassHealth continue to approve two SNVs per week if it decides, in the future, that the appellant could safely trial a reduction to one SNV per week with an increase in PRN visits available.

Order for MassHealth

Rescind modification notice and allow two SNVs per week for the prior authorization period of September 18, 2022 through January 7, 2023.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Christopher Jones
Hearing Officer

² In 2017, 130 CMR 403.415(B)(7) defined the MAV as a "skilled nursing visit for the sole purpose of administering medication may be considered medically necessary when the member is unable to perform the task due to [impairment]" The 2017 regulation at 130 CMR 403.423(H) is identical to the current 403.423(G) except that it refers the "nursing visit" as "skilled."

Board of Hearings

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