

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



| | | | |
|-------------------------|---------------|-----------------------|-------------------|
| Appeal Decision: | Denied | Appeal Number: | 2207755 |
| Decision Date: | 12/27/2022 | Hearing Date: | December 02, 2022 |
| Hearing Officer: | Brook Padgett | | |

Appellant Representative:



MassHealth Representative:

Joycelyn Alexandre, RN
Laura Rose, RN



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
MassHealth of Medical Assistance
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

| | | | |
|--------------------------|------------------|------------------------|-------------------|
| Appeal Decision: | Denied | Issue: | 130 CMR 450.204 |
| Decision Date: | 12/27/2022 | Hearing Date: | December 02, 2022 |
| MassHealth Rep.: | J. Alexandre, RN | Appellant Rep.: | [REDACTED] |
| Hearing Location: | Quincy | | |

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The Appellant received a notice dated October 10, 2022 stating: Your request for prior authorization for Home Health Services (HHS) has been modified. (Exhibit 1).

The Appellant filed a timely appeal on October 18, 2022. (130 CMR 610.015(B); Exhibit 2).

Modification of a prior approval request is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the Appellant's request for HHS services.

Issue

Did MassHealth correctly modify the Appellant's HHS hours as the request did not meet the requirements set forth in the medical necessity regulation?

Summary of Evidence

MassHealth testified that, on September 29, 2022, a prior authorization (PA) request was submitted by Able Home Care LLC on behalf of the Appellant requesting two Skilled Nursing Visits (SNV) per week. The Plan of Care dated September 09, 2022 indicated that the Appellant is a 59 year old female who resides independently in an apartment and has received SNV since July 2020. The Appellant has a diagnosis of Major depressive disorder (moderate), social phobia, and hypotension. The Provider requested SNV for cardiac, neurological, and mental health assessments as well as education on safety, medications, and medication management. MassHealth argued that the Appellant lives independently, is able to identify herself and her date of birth to the nurse, and has remained hospitalization free over the last 60 day certification period. The nurse's assessment notes indicates that the Appellant denies any shortness of breath or bowel issues, she is A-febrile and denies any pain. The notes state the nurse continues to educate the Appellant on pain management as well as eating a healthy diet with low cholesterol and exercise and the Appellant has verbalizes her understanding. The Appellant has a history of hypo-tension with no recent issues and she continues to have agoraphobia but reports she is starting to feel better and would really like to go out. MassHealth argued that based on the medical notes the request for SNV was modified to one SNV per week with three SNV as needed (PRN). (Exhibit 4).

The Appellant was represented by her Provider (Able Home Care LLC) who testified that the Appellant has a chronic psychological disease and is unable to manage her psychiatric or medical condition due to her major depressive disorder and Post Traumatic Stress Disorder (PTSD). The Appellant has a history of trauma which has led to social phobias and agoraphobia. She often reports she is living in constant fear and has a history of hospitalizations (2019 suicidal ideation). The Appellant is on a high-risk medication (Klonopin and Zoloft) which must be monitored for effects and proper use. The Appellant is often anxious and recently would not leave her home to get a flu or booster vaccine. The representatives indicated that the Appellant also has physical therapy (PT) for back, leg and arm pain once a week. The representative stated the Appellant had a severe brain injury and would currently be living in a 24 facility if it were not for an MFP (Moving Forward Plan) waiver which allows her to live in the community with support. This is the same support prescribed by her physician which MassHealth is now trying to reduce. The representatives maintained that the Appellant has recently gotten worse not better and this is the reason she needs to have her mental status assessed twice a week to avoid additional decompensation. The representative also stated the Appellant has PT on Monday and is seen by a skilled nurse on Tuesday and Thursday. The representative submitted the Appellant's most current Plan of Care dated November 08, 2022. (Exhibit 5).

MassHealth responded that a SNV cannot be for anticipatory activities. The Appellant will continue to have one skilled nursing assessment a week with three more PRN, in addition to an assessment during her PT. The Appellant is compliant with taking her medication via a lock box and her vital are all within her parameters. The Appellant is fully able to contact 911 if she has an emergency. MassHealth maintains the current medical evidence does not support the need for 2 SNVs per week; however if there has been a change in the Appellant's circumstance the

representative should submit additional medical evidence for review.

Findings of Fact

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

1. The Appellant is a 59 year old female who resides in independently with a history of major depressive disorder, social phobia, and hypotension. (Exhibit 4).
2. On September 29, 2022 the Appellant's provider agency submitted a PA requesting 2 SNVs per week. (Exhibit 4).
3. The Appellant has history of trauma which has led her to have social phobias and at times agoraphobia. (Exhibit 4).
4. The Appellant requires SNV for the assessment of her cardiac, neurological and mental health issues as well as education on safety, medications and medication management. (Exhibit 4).
5. The Appellant is able to take her medication, leave her home and contact 911 in an emergency. (Exhibit 4).
6. Plan of Care dated November 08, 2022 states the appellant is not homebound and is able to leave home at will to walk locally outside and with others to run errands, shop or visit with friends. The Appellant seldom leaves home due to her social phobia and difficulty ambulating. She has remained hospital free the last 60 days, she is current with her medications and her vitals are within her parameters. (Exhibit 5).

Analysis and Conclusions of Law

The Appellant's Provider is requesting the Appellant receive two SNV per week for medication management, mental health, cardiac and neurological assessment and education on safety, and medication management.

MassHealth is authorized to approve services such as SNV only if the activity requested is medically necessary. Pursuant to 130 CMR 450.204 (A), MassHealth will 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 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.

130 CMR 450.204

The Appellant's representatives argued that the Appellant has a chronic psychological disease and is unable to manage her psychiatric or medical condition due to her Major depressive disorder and PTSD and therefore requires 2 SNV per week. MassHealth maintained that the Appellant has been a recipient of SNV since July 2020, she resides independently in her own apartment and she has remained hospitalization free over the last 60 day certification period.

While there is no dispute that the Appellant requires monitoring for medication management and assessment, the medical evidence has not demonstrated a medical necessity for more than one SNV at this time. The Appellant's most recent Plan of Care dated November 08, 2022 states the Appellant is not homebound and is able to leave home at will to walk locally outside and with others to run errands, shop or visit with friends. She has remained hospital free the last 60 days, she is current with her medications and her vitals are within her parameters. Further testimony indicates the Appellant currently has PT on Monday and SNV on Tuesday and Thursday. This schedule results in the Appellant receiving monitoring/assessment on Monday, Tuesday, Thursday and then is left without any monitoring for three days from Thursday to Sunday. This has been the standard for at least the last 60 days without incident. Based on the medical evidence that indicates the Appellant is able to go unmonitored for three days without incident there is no medical necessity to schedule two SNV within one day of another.

While the Appellant's representative testified that the Appellant has actually gotten worse not better since the request for services there is no evidence in the record at this time to verify any decomposition. If this is the case the representative can submit a new request for services at any time along with medical evidence detailing the new issues.

MassHealth indicated in its testimony that the basis for its action was that the Appellant failed to demonstrate a medically predictable recurring need for nursing services pursuant to 130 CMR 403.421(A)(1). I am in agreement with MassHealth's modifications given the lack of evidence to the contrary, and the fact that the Appellant required no hospitalizations within the last 60 days and that she will continue to be monitored/assessed twice a week, once by her PT and once by a SNV. Based on a review of the current medical record the MassHealth action is upheld and this appeal is DENIED.

Order for the 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.

Brook Padgett
Hearing Officer
Board of Hearings

cc:
MassHealth representative:
PA Unit

