

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2207802
<b>Decision Date:</b>	12/27/2022	<b>Hearing Date:</b>	December 02, 2022
<b>Hearing Officer:</b>	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, 6<sup>th</sup> floor  
Quincy, MA 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	130 CMR 450.204
<b>Decision Date:</b>	12/27/2022	<b>Hearing Date:</b>	December 02, 2022
<b>MassHealth Rep.:</b>	J. Alexandre, RN	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	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 13, 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 19, 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.

## Issue

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

## Summary of Evidence

MassHealth testified that, on October 12, 2022, the Appellant's provider submitted a prior authorization (PA) request on the Appellant's behalf for 13 Skilled Nursing Visit (SNV) per week. On October 13, 2022, the request was modified to 1 SNV and 12 medical administration visits (MAV) with 4 SNV as needed (PRN) (the Appellant's sister gives her meds one day per week and changes the Appellant's blood sugar monitor (Lipbre) which is why the Appellant does not require 14 visits). MassHealth argued the requested SNV's were reduced because documentation from the submitted nursing notes indicate the nursing visits are primarily for medication administration. Additionally the Appellant is stable as she has had no changes in the last 60 days and MAV do not require the activities of a skilled nurse. MassHealth submitted into evidence Appellant's PA request and medical record. (Exhibit 4).

The Appellant was represented by her Provider (Able Home Care LLC) who testified that the Appellant is 66 years old and has a number of co-morbidities including diabetes, kidney disease, mental and cardiac issues, neuropathy and UTI's. Her representatives argued that the Appellant is unable to safely manage her care due to impaired judgment and impulsiveness resulting from bipolar disorder paranoia and anxious behavior. Although the Appellant's sister has assisted with her medication one weekend morning a week, all other family members are either unable or unwilling to assist. The representatives also asserted the Appellant is unsafe to independently manage her treatment and has a history of taking her medication incorrectly. She has also poor insight into her diet along as well as skin checks and care and is at risk for skin breakdown. The representatives also maintained the Appellant's current stability is due to the SNVs she receives twice a day. (Testimony).

MassHealth responded that the Appellant is not homebound and she leaves her home every week with her neighbor to shop and visit family. The Appellant also attends a day program 08:00 am to 02:00 pm Monday – Wednesday. MassHealth also stated the Appellant will continue to have a 13 nurse visits per week; however only 1 visit will be for an assessment of her condition and the other 13 visits will be for medical administration. (Testimony)

## Findings of Fact

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

1. The Appellant's provider agency submitted a prior authorization request October 12, 2022 requesting 13 SNVs per week. (Exhibit 4).
2. On October 13, 2022, the request was modified to 1 SNV and 12 MAV with 4 SNV PRN. (Exhibit 1).
3. The Appellant has a history of diabetes in addition to stage 3 kidney disease, mental issues, cardiac issues, neuropathy and UIT's. (Testimony).

4. The Appellant's sister assists the Appellant with her medication 1 day per week and changes the Appellant's blood sugar monitor. (Exhibit 4 and Testimony).
5. The Appellant is not homebound and leaves her home every week to shop and visit family. (Exhibit 4 and Testimony).
6. The Appellant attends a day program 08:00 am to 02:00 pm Monday – Wednesday. (Exhibit 4 and Testimony).
7. The Appellant's condition is stable with no changes in the last 60 days. (Exhibit 4).

## **Analysis and Conclusions of Law**

The Appellant's Provider is requesting the Appellant receive 13 SNV per week for assessment and education on disease process, treatment, and preventative measures.

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 the Appellant has a bipolar disorder with poor judgment and decision making skills and has a history of medication noncompliance. MassHealth argues the Appellant's condition is stable and she has had no medical changes in the last 60 days.

The most recent skilled nursing note dated October 04, 2022 indicate the Appellant is alert and oriented x3, denies suicidal ideation or distress. While the nursing notes do indicate the Appellant has poor insight and judgment and has past history of medication non-compliance; they also indicate the primary activity for the nursing visits is for medical administration.

There is no medical evidence in the record which indicates it is medically necessary for the Appellant to receive a skilled nursing assessment twice a day. The Appellant is not homebound and is able to independently attend appointments and a day program and she has been stable for the last 60 days. The MassHealth approval authorized the continuation of 13 nursing visits each week; however rather than 13 SNVs, 12 of the visits will be for medical administration and 1 will be for a skilled nurse to provide a complete assessment. If it is determined this authorization is not appropriate MassHealth has further authorized and an additional 4 SNV while an adjustment is requested and the need for additional SNVs is medically established.

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. 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

[REDACTED]