

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2209330
Decision Date:	4/28/2023	Hearing Date:	01/27/2023
Hearing Officer:	Scott Bernard	Record Open to:	04/04/2023

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Meghan Serell, Pharm.D, R.Ph *via telephone*



*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:	Drug Utilization Review
Decision Date:	4/28/2023	Hearing Date:	01/27/2023
MassHealth's Rep.:	Dr. Meghan Serell	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South		

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 December 10, 2022, MassHealth denied the appellant's prior authorization (PA) request for QNASL 80 MCG NASAL SPRAY. (See 130 CMR and Exhibit (Ex.) 2; Ex. 6, p. 8). The appellant filed this appeal in a timely manner on December 16, 2022. (See 130 CMR 610.015(B) and Ex. 1). Denial of a PA request is valid grounds for appeal. (See 130 CMR 610.032).

At the conclusion of the hearing, and at the appellant's request, the record was left open until March 28, 2023 to permit her to submit certain documentation. (Ex. 7). MassHealth was given until April 11, 2023 to respond, but on April 4, 2023 notified the hearing officer that no further documentation was submitted. (See Ex. 7; Ex. 8). Therefore, the record closed as of April 4, 2023.

Action Taken by MassHealth

MassHealth denied the appellant PA request for QNASL 80 MCG NASAL

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 406.412; 406.413, and 406.422, in determining that the PA request should be denied.

Summary of Evidence

The MassHealth representative testified that the appellant, through her medical provider, submitted a PA request for a specific brand name nasal spray for her allergic rhinitis. The MassHealth representative stated that the reason for the denial of this PA was that there were lower cost alternatives and no documentation that there was a trial of all the alternatives.

MassHealth received the PA request for QNASL Spray from the appellant's medical provider on December 9, 2022. (Ex. 6, pp. 3-6). The provider included a note from a patient visit on December 2, 2022. (Ex. 6, pp. 5-6). The provider stated that the appellant had the signs and symptoms of sinusitis and post-nasal drip. (Ex. 6, p. 6). In the PA request and visit note, the provider wrote that he prescribed two sprays *per* nostril each morning. (Ex. 6, pp. 3, 6). The provider stated that the appellant had trialed Flonase Sensamist (another nasal spray), and had an adverse reaction, nose bleeds. (Ex. 6, p. 4). The provider also wrote that the appellant used an albuterol inhaler because of asthma. (Ex. 6, pp. 4, 5).

In a notice dated December 10, 2022, MassHealth notified the provider that it had denied the PA request because "...[d]ocumented evidence (e.g. duration of use and outcome) supporting an adverse reaction or inadequate clinical response to over-the-counter triamcinolone nasal spray and over-the-counter generic budesonide nasal spray is required for prior authorization..." (Ex. 6, p. 8).

On January 18, 2023, MassHealth sent the appellant a letter stating that it denied the PA request for QNASL because it did not have enough information. (Ex. 6, p. 10). MassHealth requested that the appellant provide documentation stating that the appellant tried both budesonide over-the-counter nasal spray and triamcinolone over-the-counter nasal spray and either they did not work, or there were unacceptable side effects. (Id.).

The MassHealth representative stated that the appellant's pharmacy records indicate that the appellant had a prescription for a 30-day supply of triamcinolone, which was filled on November 30, 2022. This would be sufficient to show that this medication had been trialed. At this time, MassHealth still requires that the appellant submit information concerning trialing budesonide.

The appellant stated that she did not get the January 18 MassHealth letter until about two days prior to the hearing. The appellant stated she needed at least 30 days in order to set up the trial of the budesonide. The appellant stated that she had a very heavy allergic reaction to the Nasacort, which, in addition to causing nosebleeds, also caused her nose to be sore for two weeks. The appellant stated that she was going through hell and back with her condition. The appellant stated that she is relatively young but that she felt like she was 90 years old. The appellant thought that she had asthma and had been using an inhaler frequently. The appellant's current doctor¹ sent her to an allergist, who told her that she should not be using an inhaler up to the six times a day she used it. The allergist gave her tests and concluded the appellant did not have asthma but that her post-nasal drip was causing her lungs to flare up. The appellant stated that she used to use QNASL when she lived in Florida and it was covered by her insurance through work there. The appellant learned that it was not covered by MassHealth.

¹ The provider who submitted the PA request.

The MassHealth representative stated that if the appellant were able to show that she trialed the budesonide for 14 days and could document an adverse reaction, the MassHealth representative could approve the requested nasal spray. The appellant requested time after the hearing so that she could arrange an appointment her doctor and trial the medical. The appellant was given until March 28, 2023 to submit:

Documentation that she has tried budesonide OTC nasal spray (brand name Rhinocort) and it either did not work or had unacceptable side effects. Alternatively, the appellant can provide a contraindication to budesonide OTC nasal spray. This should be done with the assistance of the appellant's doctor. Once the appellant has done the above, the appellant's doctor should fax the information to [the MassHealth representative].² (Ex. 7).

The MassHealth representative was given until April 11, 2023 to respond. (Id.). On April 4, 2023, however, the MassHealth representative faxed the hearing officer stating that as of April 3, 2023 she has not received any further information. (Ex. 8). The record therefore closed on that date.

Findings of Fact

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

1. MassHealth received the PA request for QNASL Spray from the appellant's medical provider on December 9, 2022. (Ex. 6, pp. 3-6).
2. In a notice dated December 10, 2022, MassHealth notified the provider that it had denied the PA request because "...[d]ocumented evidence (e.g. duration of use and outcome) supporting an adverse reaction or inadequate clinical response to over-the-counter triamcinolone nasal spray and over-the-counter generic budesonide nasal spray is required for prior authorization..." (Ex. 6, p. 8).
3. As of the date of the hearing, the appellant had trialed over-the-counter triamcinolone nasal spray but not over-the-counter generic budesonide nasal spray. (Testimony of the MassHealth representative; Testimony of the appellant).
4. At the appellant's request, the record was left open until March 28, 2023 to allow her to submit documentation to MassHealth (through her medical provider) showing that she had tried budesonide nasal spray and it either did not work or had unacceptable side effects; or provide a contraindication to its use. (Ex. 7).
5. On April 4, 2023, however, the MassHealth representative faxed the hearing officer stating that as of April 3, 2023 she has not received any further information. (Ex. 8).

² The record open form, which was sent to the appellant by email, gave both the MassHealth representative's fax number and her address. (See Ex. 7)

Analysis and Conclusions of Law

The MassHealth Drug List specifies the drugs that are payable under MassHealth. (130 CMR 406.412(A). MassHealth regulations concerning limitations on covered drugs state the following in pertinent part:

(A) Interchangeable Drug Products. The MassHealth agency pays no more for a brand-name interchangeable drug product than its generic equivalent, unless

- (1) the prescriber has requested and received prior authorization from the MassHealth agency for a non-generic multiple-source drug (see 130 CMR 406.422.); and
- (2) the prescriber certified on the prescription that the brand-name drug is
 - (a) medically necessary and may not be substituted in a manner consistent with Massachusetts Department of Public Health regulations, and with all other applicable state and federal regulations; and
 - (b) is prescribed in the appropriate manner (e.g., written or electronic) and consistent with Massachusetts Department of Public Health regulations; or
- (3) the MassHealth agency designates the brand-name drug as preferred in the Brand-name Preferred section of the MassHealth Drug List because the net cost of the brand-name drug after consideration of all rebates, is less than the cost of the generic equivalent.

...

(C) Service Limitations.

- (1) MassHealth covers drugs that are not explicitly excluded under 130 CMR 406.413(B)³...The MassHealth Drug List specifies those drugs that are payable under MassHealth. Any drug that does not appear on the MassHealth Drug List requires prior authorization...
- (2) The MassHealth agency does not pay for the following types of drugs, or drug therapies or non-drug products without prior authorization:
 - (a) immunizing biologicals and tubercular (TB) drugs that are supplied to the provider free of charge through local boards of public health or through the Massachusetts Department of Public Health (DPH); and
 - (b) any drug, drug therapy, or non-drug product designated in the MassHealth Drug List as requiring prior authorization.
- (3) The MassHealth agency does not pay for any drug prescribed for other than the FDA-approved indications as listed in the package insert, except as the MassHealth agency determines to be consistent with current medical evidence.
- (4) The MassHealth agency does not pay for any drugs that are provided as a component of a more comprehensive service for which a single rate of pay is established in accordance with 130 CMR 450.307: Unacceptable Billing Practices.

If the limitations on covered drugs specified above would result in inadequate treatment for a diagnosed

³ The drug that is the subject of this appeal is not one that is specifically excluded under this paragraph.

medical condition, the prescriber may submit a written request, including written documentation of medical necessity, to MassHealth for prior authorization for an otherwise noncovered drug. (130 CMR 406.422(A)). The prior authorization must be submitted in accordance with 130 CMR 450.303: Prior Authorization and the instructions for requesting prior authorization in the Pharmacy Online Processing System (POPS) billing guide, the MassHealth Drug List, and any other applicable guidance. (130 CMR 406.422(B)).

A preponderance of the evidence does not support the appellant's PA request for QNASL. In order for MassHealth to approve such a PA request, the appellant was required to submit documentation that she has tried budesonide OTC nasal spray and it either did not work or had unacceptable side effects. Alternatively, the appellant could also provide a contraindication to budesonide OTC nasal spray. The appellant was given until March 28, 2023 to submit this documentation to MassHealth. Per MassHealth, the appellant had submitted no further information as of April 3, 2023. Therefore, the record does not support the PA request.

For the above stated reasons, the appeal is DENIED.

Order for 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

UMMS Drug Utilization Review, Commonwealth Medicine, 333 South Street, Shrewsbury, MA 01545