

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2302862
Decision Date:	07/07/2023	Hearing Date:	05/15/2023
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Meghan Serell, R.Ph., Pharm.D., Appeals
Reviewer, Drug Utilization Review



*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; Prior Authorization
Decision Date:	07/07/2023	Hearing Date:	05/15/2023
MassHealth's Rep.:	Meghan Serell, R.Ph., Pharm.D	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (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 March 8, 2023, MassHealth denied Appellant's request for prior authorization (PA) seeking coverage of Desoxyn (methamphetamine) 5mg tablet. See Exhibit 1. The Appellant filed this appeal in a timely manner on April 8, 2023. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is a valid basis for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's PA request for Desoxyn (methamphetamine) 5mg tablet.

Issue

The appeal issue is whether MassHealth was correct in denying Appellant's PA request for Desoxyn (methamphetamine) 5mg tablet.

Summary of Evidence

At the hearing, MassHealth was represented by Megan Serell, Pharm.D., a registered pharmacist from MassHealth's Drug Utilization Review (DUR) Program. Through documentary submissions and oral testimony, Dr. Serell provided the following evidence: Through a prior authorization (PA) request dated March 7, 2023, Appellant's provider, a medical doctor, sought MassHealth approval for the following medication on behalf of Appellant: Methamphetamine 5mg tablets twice per-day ("BID") for the treatment of attention deficit hyperactivity disorder (ADHD). See Exh. 5, p. 4. The PA request noted that Appellant was a male MassHealth member over the age of 21. The PA request form, which was specifically designated for "Cerebral Stimulant and ADHD Drugs," did not provide additional information about Appellant's medical history, nor did it identify any other medications/ treatments that had been attempted in the past.

Next, Dr. Serell explained that through its Drug List, MassHealth establishes and publishes medical necessity criteria for drugs that are subject to the agency prior approval. The MassHealth drug list requires that for approval of methamphetamine, the requesting provider must include a diagnosis of ADHD and "medical records documenting an inadequate response (defined as \geq seven days of therapy) or adverse reaction to all other stimulant and non-stimulant medications." See Exh. 5, p. 25. Dr. Serell explained that the established criteria is due to the public health problems concerning the drug, including its high potential for diversion and abuse.

On March 8, 2023, MassHealth denied Appellant's PA request on the basis that the submission did not contain sufficient information to determine medical necessity. Id. at 11. The notice informed the provider that they could resubmit the request with additional information, "e.g. previous drug trials with dates of use and outcomes, trials with all stimulant and non-stimulant alternatives." Id. Dr. Serell explained that in preparation for this appeal, MassHealth sent Appellant a letter dated 5/2/23 requesting Appellant provide medical documentation showing he has tried all other stimulant and non-stimulant medication and that they did not work, or that he had unacceptable side effects. See id. at 13. To date, MassHealth received no additional information in support of the request.

Appellant appeared at the hearing and testified that, for decades, he has been on many other ADHD medications, including Adderall and Ritalin, unsuccessfully. After having not found a medication that has worked, he and his provider decided to take the leap to try Desoxyn. Appellant argued that methamphetamine has been found to be light years more effective in treating ADHD than traditional medications. In support thereof, Appellant submitted online reviews from individuals who had significant improvement after starting Desoxyn and found it to be "life changing," with a high average rating of 9.9/10 according to Drugs.com. See Exh. 2, p. 3-4. Appellant stated that he understands, and has discussed with his doctor at length, the potential for abuse. As with other drugs in this therapeutic class, addiction is risk – a factor that he and his doctor have not taken lightly. Appellant also described his understanding of a common misconception or stigma of the extent of addiction potential, and that when

prescribed in this way, it is not as dangerous as the public makes it out to be. Additionally, Appellant argued that MassHealth's expectation that a person trial every medication available before considering Desoxyn is an extremely unreasonable burden. Finally, Appellant testified upon receiving MassHealth's pre-hearing letter, he asked his doctor to submit clinical documentation of past medication history to MassHealth; however, he has no control over whether his doctor follows through or what he includes in the PA request.

Findings of Fact

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

1. Appellant is a male MassHealth member over the age of 21.
2. Through PA request dated March 7, 2023, Appellant's provider, a medical doctor, sought MassHealth approval for the following medication on behalf of Appellant: Methamphetamine 5mg tablets twice per-day for the treatment of ADHD.
3. The PA request form, which was specifically designated for "Cerebral Stimulant and ADHD Drugs," did not provide additional information about Appellant's medical history, nor did it identify any other medications/ treatments that Appellant attempted in the past.
4. On March 8, 2023, MassHealth denied Appellant's PA request on the basis that the submission did not contain sufficient information to determine medical necessity, and informed the provider that a new PA request could be submitted with additional information, "e.g. previous drug trials with dates of use and outcomes, trials with all stimulant and non-stimulant alternatives."
5. In preparation for the hearing, MassHealth sent Appellant a letter dated 5/2/23 requesting medical documentation showing he has tried all other stimulant and non-stimulant medication and that they did not work, or that he had unacceptable side effects.
6. As of the hearing date, MassHealth had not received any new information.
7. Appellant was unable to submit medical documentation detailing previously prescribed medications, such as Adderall and Ritalin, which he has found to be ineffective in treating his ADHD.

Analysis and Conclusions of Law

MassHealth does not cover a medical service unless it is "medically necessary." The threshold

considerations for determining whether a service is medically necessary are set forth under 130 CMR 450.204, which states, in full:

450.204: Medical Necessity

(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, or 517.007.

(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. ...

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(emphasis added).

As subsection (D) indicates, MassHealth establishes additional medical necessity criteria throughout its regulations and publications governing specific health-related service-types. For coverage of prescription drugs, MassHealth publishes and routinely updates a “Drug List” - a formulary that identifies whether a covered drug is subject to prior approval and the specific criteria required to establish medical necessity for the drug. See 130 CMR 406.422; see also 130 CMR 450.303. The criteria used to determine medical necessity is “based upon generally accepted standards of practice, review of the medical literature, federal and state policies, as well as laws applicable to the Massachusetts Medicaid Program.”¹ Further, the criteria reflect

¹ See <https://mhd1.pharmacy.services.conduent.com/MHDL/>

MassHealth's policy as described in its pharmacy regulations and the reviews conducted by the agency and the DUR board. See id.

As published in its Drug List, MassHealth has imposed the following PA criteria for coverage of Desoxyn (methamphetamine):

methamphetamine

- Documentation of the following is required:
 - diagnosis of ADHD; **and**
 - medical records documenting an inadequate response (defined as \geq seven days of therapy) or adverse reaction to all other stimulant and non-stimulant medications.

See Exh. 5, p. 25; see also MassHealth Drug List, Table 31 (www.mass.gov/druglist)

Based on the evidence in the record, MassHealth did not err in denying Appellant's PA request for methamphetamine 5mg tablets. Appellant's provider did not submit documentation to establish the requisite criteria that Appellant has had an "inadequate response...or adverse reaction to all other stimulant and non-stimulant medications." Id. The only information included in the PA request consisted of the requested prescription dosing information and a notation that it was being prescribed for the indication of ADHD. Although Appellant testified credibly that he has a long-standing history of inadequate responses to alternative ADHD medications, no medical records had been submitted to detail this past treatment. Appellant further suggested that the agency's expectation a member must trial all other medications is unreasonable and not feasible. This argument, however, loses any persuasive value absent any meaningful documentation of Appellant's prior medication trials and outcomes. To the extent this claim is a challenge to the legality of the MassHealth PA criteria, it cannot be adjudicated in this hearing decision, but may be pursued via judicial review in accordance with M.G.L. c. 30A.²

Based on the foregoing, Appellant did not establish, by a preponderance of the evidence, that MassHealth erred in denying his PA request. As such, this appeal is DENIED.

Order for MassHealth

² The hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency. Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092. See 130 CMR 610.082(C)(2) (emphasis added); see also 130 CMR 450.244.

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

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