

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308078
Decision Date:	09/21/2023	Hearing Date:	09/14/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:

Pro se

Appearance for Respondent:

Jamie Farrell, Complaints & Appeals Manager;
Maryann Petrolati, Utilization Manager; Dawn
Martin, Manager of Utilization Department;
Colleen Picard, Case Reviewer.

Elana Horwitz, Senior Contract Manager,
Health Plan Administration and Oversight,
MassHealth, Observing.

Interpreter:



*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:	Termination of Acute Rehabilitation; Medical Necessity
Decision Date:	09/21/2023	Hearing Date:	09/14/2023
Respondent's Rep.: Jamie Farrell, Complaints & Appeals; Maryann Petrolati, Utilization Manager; Dawn Martin, Manager of Utilization Department; Colleen Picard, Case Reviewer.		Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	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 8, 2023, Health New England, (HNE) an Account Care Organization (ACO) contracted with MassHealth, denied appellant's internal appeal because it was determined appellant no longer met the criteria for continued Acute Rehabilitation due to the lack of medical necessity. (Ex. 1). The appellant filed this appeal in a timely manner on September 8, 2023. (Ex. 2). A decision by a managed care contractor to deny or provide limited authorization of a requested service, including the type or level of service, including determinations based on the type or level of service or requirements for medically necessity are grounds for appeal. (130 CMR 610.032 (B)).

Action Taken by Respondent

Health New England denied appellant's internal appeal because they found she no longer met the criteria for a continued Acute Rehabilitation stay.

Issue

Was Respondent Health New England correct in denying appellant's internal appeal due to lack of medical necessity to continue Acute Rehabilitation.

Summary of Evidence

Appellant is a MassHealth member in her early 50's, who represented herself at hearing and appeared via telephone. [REDACTED] was represented by four individuals, with a Case Reviewer providing most of the testimony. Appellant suffered a stroke and was admitted to the hospital. Thereafter, she was admitted to [REDACTED] on August 28, 2023. [REDACTED] is contracted with HNE. The day after her admission to [REDACTED], appellant was placed into Covid isolation, where she remained until September 5, 2023. Appellant was "receiving therapies in room." (Ex. 4, p. 41). Appellant was discharged from [REDACTED] on [REDACTED]. By notice dated September 6, 2023, HNE ended rehabilitation services for appellant due to lack of medical necessity. (Ex. 4, p. 15). Appellant requested an expedited appeal, which was denied by notice on September 8, 2023. (Ex. 1). HNE contends that appellant, as of September 6, 2023, is independent moving in bed; Supervision (someone watching her, Testimony) to Contact Guard Assist (someone standing next to appellant, Testimony) moving from one surface to another; and is able to walk 75 feet with a walker, Contact Guard Assist; Appellant is Supervision Bathing/Dressing her upper body; she is Contact Guard Assist Dressing lower body; Appellant is Supervision with toilet transfers. HNE's physician reviewed appellant's records and concluded appellant was medically stable, has made progress towards goals, and progressed to a level of care that can be managed at a lower level and no longer meets skilled level of care criteria. (Ex. 4, p. 15). The HNE review also concluded appellant "is predominately needing supervision only, with no barriers to discharge." (Ex. 4, p. 22). The HNE representative also testified as to a medical doctor's notes that showed appellant was cooperative, offered no acute complaints, was bored, had a minimal cough and no acute nursing concerns were raised. (Testimony). The HNE representative testified that the goal of rehabilitation is not to be independent but to be able to function. (Testimony). HNE approved Visiting Nurses Services (VNA). (Ex. 4, p. 16).

Appellant testified that she disagreed with the medical notes offered by HNE from [REDACTED]. She confirmed that she was diagnosed with Covid the day after admission to [REDACTED]. She stated she knew she wouldn't be independent going home but she thought the time at the rehabilitation was a bit of a rush. Appellant confirmed she will be getting services from Visiting

Nurses Association (VNA) but she was awaiting sign off from her primary care physician.

Findings of Fact

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

1. Appellant is a MassHealth member who entered a rehabilitation hospital on [REDACTED] after suffering a stroke and was discharged on [REDACTED]. (Testimony).
2. The day after her admission to rehabilitation, appellant tested positive for Covid. She cleared isolation on September 5, 2023. (Testimony).
3. Appellant was receiving therapy in her room. (Ex. 4, p. 41).
4. HNE ended coverage for rehabilitation services because it was no longer medically necessary. (Ex. 4, p. 15).
5. Appellant initiated an expedited appeal because of the termination of coverage. (Testimony).
6. HNE denied appellant's expedited appeal due to lack of medical necessity. (Ex. 1).
7. HNE approved VNA services for appellant. (Ex. 4, p. 16).
8. Appellant knew she would not be independent upon discharge. (Testimony).
9. As of September 5, 2023, appellant's Medical Status was stable and her Functional Status was either Supervision or Contact Guard Assist. (Testimony). Functional status included bed mobility or transfers from one surface to another or walking with a walker or bathing and showering, although hygiene required moderate assistance. (Testimony).

Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

Pursuant to MassHealth regulation 130 CMR 450.204, MassHealth will not pay a provider for services that are not medically necessary. MassHealth's regulations define a service as being "medically necessary" if it is:

- (1) 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 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 Division. Services that are less costly to the Division, include, but are not limited to, health care reasonable known to the provider, or identified by the Division 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(A).

When notifying appellant about the denial of her expedited appeal, HNE informed appellant they made this determination using HNE's "Medical Criteria/Guidelines for continued stay at an Acute Rehabilitation facility." (Ex. 1). These guidelines are known as InterQual criteria (IQ) and an example of these guidelines is included in the record. (Ex. 4, p. 12). In explaining what these criteria/guidelines were, the HNE representative testified when a member gets to a level of independence or supervision or contact guard assist for functional mobility, HNE enters data into a program. This process allows HNE to ensure that rehabilitation was maximized. The process for using these guidelines was described as going through the program and clicking on data based on notes provided from the rehabilitation facility. In this case, after the data was entered by HNE into their guidelines, the result validated what HNE already suspected, that the doctor's denial of a continued rehabilitation stay for appellant was not medically necessary. (Testimony). These guidelines cannot be accessed or relied upon by this hearing officer and are therefore not binding in this hearing. The standard of medical necessity shall guide this decision.

After admission to Encompass, appellant was placed into covid isolation. Despite this, therapy provided to appellant continued in her room. (Ex. 4, p. 41). Appellant acknowledges that therapy occurred in her room. (Ex. 5). Appellant was described as "well motivated." (Ex. 4, p. 53). The record reflects appellant's progress in therapy. As of September 5, 2023, appellant could comb/brush her hair independently. Lower body dressing by appellant was supervision or touching assistance. Appellant's oral hygiene was independent. Appellant putting on or taking off shoes was supervision or touching assistance. Transferring from chair to bed to chair was supervision to touching assistance. From lying down to sitting on side of the bed was independent for appellant. Appellant's ability to be able to roll left and right was independent. Sitting to standing was supervision to touching assistance. Encompass notes that as of September 6, 2023, appellant "predominantly needing supervision only with no barriers to discharge." (Ex. 4, pp. 22, 41-43). HNE stated that appellant was at a level of care to transition home and be managed at a lower level. (Testimony). HNE approved Visiting Nurses Association services for appellant.

Appellant felt her time at the rehabilitation facility was rushed. She disagreed with many of the medical notes that were in evidence from Encompass. However, appellant testified she knew she

wouldn't be at an independent level at time of discharge and knew she would not be the same as before her stroke. (Testimony). She stated that physical therapy is scheduled to begin in her home on September 27, 2023. Encompass notes that as of September 5, 2023, appellant "has no concerns at this point." (Ex. 4, p. 33).

Appellant has not met her burden to show "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 Division." (130 CMR 450.204(A) (2)). Appellant is being provided with VNA and physical therapy services at home. The record reflects appellant's Medical Status is stable and her Functional Status is supervision (someone watching) or contact guard assist (someone standing next to you). (Testimony). Based upon the record before me, the appeal is denied.

Order for Respondent

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Health New England, James Farrell, Complaints & Appeals, One Monarch Place, #1500, Springfield, MA 01144-1500